

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **30 NOVEMBER, 2023**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

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

Decision Codes:

A	Accepted
AC	Approved Conditionally
AW	Accepted (Welsh Water)
R	Refused

(a) Building Regulation Applications - Pass

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

2023/0007/PV	AC	8, Heol Y Felin, Llantwit Major. CF61 1TS	New solid panels replacing translucent panels within existing conservatory roof
2023/0020/PO	AC	9, Llanarth Square, Risca, Newport. NP11 6EA	Single storey rear lean to extension
2023/0021/PO	AC	56, Coedriglan Drive, The Drope, Cardiff. CF5 4UN	Two storey side extension
2023/0500/BR	AC	142-144, Holton Road, Barry, CF63 4UA	New steel beams to front retail elevation, re-roof, new shop front and windows and structural works to ground floor over basement
2023/0511/BR	AC	Bay View Lodge Care Home, 26, Porthkerry Road, Rhoose, CF62 3HD	Internal alterations to care home
2023/0521/BR	AC	16, Britten Road, Penarth, CF64 3QJ	Expansion of existing loft conversion with 2x dormers, Juliet balcony to rear. Single storey extension to existing garage. New roof lights to existing single storey extension

2023/0526/BR	AC	32, Drylla, Dinas Powys, CF64 4UL	Internal reconfiguration. Knocking down of walls and installation of beams. Also moving Kitchen from front of the house to the back of the house.
2023/0528/BN	A	27, Willow Close, Penarth. CF64 3NG	Loft conversion with dormer to rear
2023/0530/BN	A	Court Lodge, Aberthin. CF71 7LG	Replace conservatory with garden room. New under floor wet heating
2023/0532/BN	A	14, Mill Park, Cowbridge. CF71 7BG	Replacement roof.
2023/0534/BN	A	79, Cardiff Road, Barry. CF63 2NW	Replacement of 15 no. UPVC double glazed windows
2023/0535/BN	A	Touchwood, Cwm Drive, Dinas Powys. CF64 4HL	Internal knock through between kitchen and living room
2023/0536/BN	A	1, Southey Street, Barry. CF62 8EY	Re roof
2023/0537/BN	A W	12, Merganser Court, Barry. CF63 4JT	Provision of front access ramp and level threshold door to allow wheelchair access
2023/0538/BN	A W	34, Tennyson Road, Penarth. CF64 2RZ	Single storey rear extension with pitched roof
2023/0539/BN	A	5, Ringwood Crescent, St. Athan. CF62 4LA	Loft conversion no dormer
2023/0540/BN	A	38, Evans Street, Barry. CF62 8DU	Loft conversion with dormer to the rear including replacement of front elevation slates. Small flat roof extension to rear of property including lantern to allow natural light and offer a more usable kitchen space
2023/0541/BN	A	20, Georges Row, Dinas Powys. CF64 4LF	Loft conversion with dormer and en suite

2023/0542/BN	A W	3, St. Fagans Avenue, Barry. CF62 8BS	Single storey rear extension
2023/0543/BN	A	37, Westbourne Road, Penarth. CF64 3Ha	Demolition of rear extension and construction of a two storey rear extension
2023/0544/BN	A	123, Pontypridd Road, Barry. CF62 7LU	Knock through between kitchen and dining room
2023/0545/BN	A	47, Andrew Road, Penarth. CF64 2NT	Single storey extension
2023/0546/BN	A	Gorllwyn House, Pendoylan. CF71 7UJ	Double storey extension to an existing dwelling
2023/0547/BN	A	50, Andover Close, Barry. CF62 8AG	Single storey extension to the side and front elevation
2023/0548/BR	AC	46, Fontygary Road, Rhoose. CF62 3DS	Single storey rear extension and internal alterations
2023/0549/BN	A	38A and B, Morel Street, Barry. CF63 4PL	Internal alteration of ground floor flat to create small lobby area to provide additional fire escape exit between kitchen area and communal entrance. Relocation of kitchen to ground floor front room (Flat B). Relocation of kitchen into first floor front room (Flat A)
2023/0550/BN	A W	29, Park Road, Barry. CF62 6NX	Single storey extension to gain storage with a balcony and stairs for access to flat above, doorway in existing flat and new extension, rendered finishing and rubber roof
2023/0551/BN	A W	Land Adjacent to 24, Cedar Road, Eglwys Brewis, CF62 4JT	Proposed construction of 2 No. 4 bedroom detached dwelling houses.
2023/0552/BR	AC	Holton Road Primary School, Holton Road, Barry. CF63 4TF	Refurbishment of the existing caretakers house to 3 no. classrooms and 1 no. office. New roof covering windows and doors

2023/0553/BN	A	6, Purdey Close, Barry. CF62 8NS	Single storey extension to enlarge lounge and add one bedroom
2023/0554/BN	A W	21, Clement Place, Barry. CF62 6SN	Rear single storey extension and internal alterations
2023/0555/BN	A	114, Westbourne Road, Penarth. CF64 3HH	Single storey extension (16m ²), three knock throughs and refurbishment
2023/0556/BN	A	1, Ash Grove, Barry. CF63 1LS	Drainage works - supply 12m of new aco drain channel in front of existing wall to patio area level on a 50mm bed of concrete. Excavate to uncover existing drainage. Supply all pipework and inspection chamber to connect aco drain channel to surface water drainage system. Allowance has been made to make good around new inspection chamber with concrete
2023/0557/BN	A	2, Pen Y Waun, Dinas Powys. CF64 4QT	Window Replacement
2023/0558/BN	A W	3, Dorothy Avenue, Barry. CF62 9XG	Single storey extension with one knock through
2023/0559/BN	A W	4, Church View, Llanblethian. CF71 7JJ	Demolition of existing garage, replace with a single storey detached building to accommodate home office and small store
2023/0560/BN	A	Anwylfan, Corntown Road, Ewenny. CF35 5BH	Single storey extension
2023/0561/BN	A	19, Vincent Close, Barry. CF63 2AG	Two storey extension to side creating two bedrooms, utility room and integral garage

2023/0562/BN	A	1, Church Rise, Wenvoe. CF5 6DE	New external porch linked to garage and internal alterations to layout
2023/0563/BR	AC	46, Grange Gardens, Llantwit Major. CF61 2XB	Structural alteration to front and rear doorways. Formation of a G/F bedroom and shower room within existing rooms. Including drainage connection to existing inspection chamber.
2023/0564/BN	A	Church House, St. Mary Church	Conversion of pool into living room and internal alterations
2023/0565/BN	A	23A, Cardigan Close, Dinas Powys. CF64 4PL	New internal staircase to basement
2023/0566/BN	A	Glan Y Mor Holdings, Lane - Heol Las to Glan Y Mor Farm, Wick	Single storey toilet block
2023/0567/BR	AC	32, Kingsland Crescent, Barry. CF63 4JQ	Shower room adaption, door widening and external step lift installation
2023/0568/BN	A	1, Arlington Mews, Arlington Road, Sully. CF64 5RA	Loft conversion with dormers to bungalow, internal alterations, internal garage conversion to kitchen, Replacement windows <20, EWI and install of a log burner
2023/0569/BN	A	13, Coldbrook Road East, Barry. CF63 1NF	New Roof
2023/0572/BN	A	20, Denys Close, Dinas Powys. CF64 4JR	Loadbearing wall removal and insertion of one steel beam
2023/0573/BN	A	1, Conway Close, Dinas Powys. CF64 4PF	Insulate and relay old concrete slab to rear of property and replace 4 old windows
2023/0574/BN	A W	8, Denbigh Drive, Llantwit Major. CF61 2GQ	Single storey front extension

2023/0575/BN	A	12, Mill Road, Dinas Powys. CF64 4BT	Removal of ground floor bay window and installation of bi fold doors with RSJ above
2023/0580/BN	A	Cwm Pennant Park Road, Dinas Powys. CF64 4HJ	Additional storey to dwelling with balcony. Balcony to ground floor and lower ground floor. Renovation throughout
2023/0581/BR	AC	Penarth Leisure Centre, Andrew Road, Cogan, Penarth, CF64 2NS	Remove and replace external cladding, overlay existing roofing, remove and replace lightening conductor system
2023/0583/BN	A	9, Heol Livesey, Barry. CF62 5BT	Single storey rear extension
2023/0584/BN	A	26, Beechwood Drive, Penarth. CF64 3QZ	Re roof
2023/0587/BR	AC	18, Elm Grove Road, Dinas Powys. CF64 4AA	Proposed loft conversion with hip to gable and rear dormer
2023/0588/BN	A	23, Wenvoe Terrace, Barry. CF62 7ES	Loft conversion with dormer

(b) Building Regulation Applications - Reject

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

2023/0571/BN	R	15, Maillards Haven, Penarth. CF64 5RF	1 tiled roof installation
2023/0576/BN	R	5, Heol Y Pentir, Rhoose. CF62 3LQ	Single story extension and part garage conversion to form office room within existing garage room.
2023/0577/BN	R	7, Ashgrove, Dinas Powys. CF64 4TL	Knock Through on first floor. Removing French door and window on ground floor and re fitting with bi fold door and installing steel beam

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

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

2023/0157/AI	A	66, Cog Road, Sully, Penarth. CF64 5TE	Replacement conservatory roof with Eurocell Equinox tiled roof (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)
2023/0158/AI	A	Traherne Arms, The Tumble, St. Nicholas. CF5 6SA	Internal alterations to existing restaurant to include structural alterations and repair, new roof structure, new first floor, internal reconfiguration plus replacement fixed building services
2023/0159/AI	A	22, Norseman Close, Rhoose. CF62 3FY	Loft conversion and garage conversion to form habitable space (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)
2023/160/AI	A	16, Regency Close, Llantwit Major. CF61 2XW	Single storey rear extension (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)
2023/0161/AI	A	Ty Pelican. Wesley Street, Llantwit Major. CF61 1RA	Loft conversion with Velux window at second floor to create two habitable room (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)
2023/0162/AI	A	171, Plymouth Road, Penarth. CF64 5DG	Construction of a detached outbuilding for ancillary use
2023/01063/AI	A	Marlborough Grange, Crossways, Cowbridge. CF71 7LJ	Internal structural alterations (works to include material alterations to structure, controlled

		services, fittings and thermal elements)
2023/0164/AI	8, Manor Court, Ewenny. CF35 5RH	Replacement conservatory roof to an existing dwelling

(d) Section 32 Building Act, 1984

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

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

2020/0270/BN
2020/0477/BN
2020/0537/BR
2020/0546/BR
2020/0644/BN
2020/0657/BR
2020/0676/BR

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2. PLANNING APPLICATIONS DETERMINED BY THE HEAD OF SUSTAINABLE DEVELOPMENT 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

2016/00601/HAZ	A	Dow Corning, Cardiff Road, Barry	Hazardous substances consent
2020/00137/FUL	A	Siteserv Recycling, Triple Crown House, Llandow Trading Estate, Llandow	Variation of Condition 2 (Specification of Use) of Planning Application 2017/00329/FUL
2020/00171/FUL	R	Barry Island Pleasure Park, Friars Road, Barry	Removal of existing SE gateway and replacement with a gateway that will provide safe lorry access for changing wide loads and lorry based rides. Proposed widening of NE gateway to provide wider exit for wide loads.

2020/00172/CAC	R	Barry Island Pleasure Park, Friars Road, Barry	Removal of existing SE gateway and replacement with a gateway that will provide safe lorry access for changing wide loads and lorry based rides. Proposed widening of NE gateway to provide wider exit for wide loads.
2021/00942/FUL	R	Land adjacent Meadow Court, Trehyngyll	Proposed detached dwelling
2021/01435/FUL	R	Ger Y Nant Farm, Argae Lane, St Andrews Major	Conversion of existing farm buildings into 5 no. holiday lets and warden accommodation
2021/01482/FUL	A	Station Hotel, 162, Windsor Road, Penarth	Proposed partial demolition of existing building and conversion to 6 residential units (C3 Use Class) along with parking and associated works
2022/00160/FUL	A	16, Plas Taliesin, Penarth	Remove front entrance staircase, first floor living room extension, new balcony, garage conversion, internal remodelling, small dwarf garden wall with glass balustrade screens
2022/00183/FUL	A	17, Chandlers Way, Penarth	Erection of rear garden fence
2022/00337/FUL	A	21, Fontygary Road, Rhoose	Change of use to hot food takeaway premises as a Fish, Chip and Kebab takeaway A3 food and drink premises.
2022/00622/FUL	A	Cottrell Park Golf Club, A48, St. Nicholas	Demolition of existing bar/restaurant conservatory. New glazed extension to bar/restaurant. Extension to courtyard elevation to form 'cloister

			link' and new turret to create link to function rooms and bar
2022/01113/4/C D	A	Land at Lower Cosmeston Farm, Lavernock, Penarth	Discharge of Condition 13 (1st condition survey (prior to commencement)). Planning permission ref: 2022/01113/RG3 - Proposed new specialised school and associated access, landscape, and engineering works
2022/01142/1/N MA	A	Spring House, Watery Lane, Bonvilston	Non Material Amendment - To amend the approved plans. Planning permission ref: 2022/01142/FUL - single storey rear extension
2022/01166/FUL	A	Sherwood, Groesfaen Road, Peterston Super Ely	Extensions and alterations to existing house
2022/01222/FUL	R	Pantwilkin Stables, Aberthin	Change of use of equine buildings to employment uses, storage uses and cafe, and associated works (part retrospective)
2023/00012/1/N MA	A	St. Brides Major Church In Wales Primary School, Heol Yr Ysgol, St. Brides Major	Non Material Amendment - Existing Hall to be retained (where previously shown to be demolished), with new extension to existing Hall only. Construction of new Lobby and covered area omitted. Planning permission ref: 2023/00012/FUL - Proposed extension to existing school hall
2023/00045/FUL	A	Mail Point, Llantwit Road, St. Athan	Install 6 x10 metre lighting mast with 2x floodlights on each to illuminate sports pitch. These lights are designed to be non operative between the hours of 22:00 and 07:00

2023/00131/FUL	R	72, Illtyd Avenue, Llantwit Major	Three storey side extension with rear dormer and Juliet balcony, alterations to fenestration
2023/00149/FUL	A	Ishton Barn, Lon Cwrt Ynyston, Leckwith	Replacement of softwood timber windows with high quality aluminium windows. Replacement of uPVC French doors with aluminium French doors
2023/00150/1/C D	A	Rose Cottage, Gileston	Discharge of Conditions 3 (Photographic Survey), 4 (Fire Resistance measures Details), 5 (Details of how the thatch is attached to rafters), 6 (Details of the flashing around the chimney) and 7 (Method Statement - Thatching). Planning permission 2023/00150/LBC - We're looking to replace our thatch roof which is nearing the end of its life
2023/00158/LBC	R	Plaisted House, Llanmaes	Single storey rear extension with flat roof and single storey extension to rear with pitched roof
2023/00170/FUL	A	39A, Barry Road, Barry	Two storey to provide two bedroom accommodation
2023/00195/FUL	A	Maslin Park, Plymouth Road, Barry	Siting of storage container unit adjacent to existing container, paved dug out area either side of the pitch and pitch barrier
2023/00235/FUL	A	Marc Jordan 2, 33, High Street, Barry	Change of use from A1 (retail) to a mix of A1 (retail) and A3 (food and drink)
2023/00311/FUL	R	Plaisted House, Llanmaes	Single storey rear extension with flat roof and

			single storey extension to rear with pitched roof
2023/00327/FUL	A	Apartment Block A, Heol Ty Draw, Barry	Proposed conversion of ground floor bin/bicycle storage to no.1 affordable apartments, downsized bin/bicycle storage and other associated ancillary works
2023/00397/FUL	A	Lom House, Ilminster Street, Barry	Change of use of premises from Workshop/Office Space to Community Hall (D2) Use
2023/00406/LAW	R	33, Albert Road, Penarth	Build a new conservatory at the rear, landscaping to the existing garden/courtyard, repair to external walls of the existing workshop, replacement of the existing roof
2023/00442/LBC	A	10, Cory Crescent, Peterston Super Ely	Addition of solar panels on rear of main roof and rear extension. Alterations to single storey rear extension's roof to replace existing pitched side gable with flat roof to look similar to recent extension and removal of dated failing portion of roof and replacement with a triple Velux rooflight. Changing utility room in rear extension to and ensuite.
2023/00457/LAW	A	Land to the rear of Bassett Road, Sully	Lawful Development Certificate Application for the Meaningful Commencement of Development in Connection with Planning Permission ref: 2015/00744/FUL

2023/00503/FUL	R	2, Bramble Rise, Cogan, Penarth	Single storey side extension and extension to residential curtilage
2023/00514/FUL	A	Carmel Chapel, Bonvilston	Proposed conversion of existing garage and loft into ancillary accommodation (granny annexe) - Carmel Cottage
2023/00519/RG3	A	BSC2 Innovation Quarter, Hood Road, Barry	Minor alterations to main building entrance, existing external landscaping and surface car park. Addition of a new surface car park at the rear of the building
2023/00569/LAW	A	90, Main Street, Barry	I require Lawful Development Certificates for use as two separate dwellinghouses/residential units for properties ground floor flat and first floor flat
2023/00574/FUL	R	2, Masefield Road, Penarth	First storey to an existing single storey development, planning reference 2020/00275/LAW
2023/00589/FUL	R	Big Mews, Hilton Farm, Colwinston	Retain the use of the redundant building for holiday accommodation and retain a front porch and rear extension
2023/00641/FUL	A	9, Shakespeare Drive, Llantwit Major	Removal of overgrown 3-4m high hedge (not native) and replacement with a timber fence
2023/00648/FUL	A	14 Torbay Terrace, Rhoose	Ground floor rear extension
2023/00667/LBC	A	East Hall, Fonmon	Undertake remedial repairs to structures of existing building: Like for like replacement of rotted floor joists, removal of damp plasterwork to make safe supporting structures

2023/00679/FUL	A	Westridge, Church Close, Ogmere By Sea	Remodelling of house including new first floor and external alterations
2023/00681/ADV	A	Sunbeams, Twyncyn, Dinas Powys	A digitally printed image with various CGI s of the proposed development to include marketing agents details and specifications. The image proposed be 6320mm x 1200mm mounted on the site hoarding
2023/00684/FUL	A	Tamerlanes, Rhoose Road, Rhoose	Retrospective permission for the erection of a temporary pergola-type wooden structure with wired sides and top to front elevation of property, used as a safe outdoor "catio" for pet cats
2023/00691/FUL	R	83, Monmouth Way, Boverton, Llantwit Major	First floor extension on existing structure and garage conversion
2023/00705/FUL	A	22, Meliden Road, Penarth	Proposed single storey rear and side extension. Existing entrance door located to front elevation. New pitched roof in place of flat roof to current two storey side extension. Proposed loft conversion including hip to gable and dormer with Juliet balcony to rear. Existing driveway and crossover widened
2023/00707/FUL	A	12, Agnes Street, Penarth	First floor rear extension
2023/00711/FUL	R	Land to the rear of 160 Windsor Road, Penarth	The erection of a storage and lock up facility with office space over.

2023/00726/FUL	A	Garnllwyd Barns, Llancarfan	Erection of retaining wall and concrete hardstanding for the purpose of locating an outside water storage tank, water heating system and ground source heat pump
2023/00738/FUL	A	Rock House, Fonmon	Rear existing extension changed from pitched roof to flat roof with parapet and lantern style rooflights. New bifold door to rear. Additional first floor windows to rear and side.
2023/00745/FUL	A	5, Town Hall Square, Cowbridge	Change of use from A1 to D1 as a community hub for a church
2023/00746/RES	A	District Centre, Land at Barry Waterfront, Barry	Variation of Condition 12 (Use Classes) of Planning Permission ref. 2019/01407/RES (Construction of new District Centre comprising of 57 residential apartments, 1,885sq.m food and drink use (A3), 390sq.m flexible commercial use (D1/D2/A3), together with associated infrastructure works, parking and landscaping)
2023/00747/FUL	A	Gardeners Mews, Hensol Castle Estate, Hensol	Part retrospective application for retention and completion of bat mitigation / refuse store building, creation of car parking spaces, and associated works (in conjunction with planning permission ref. 2018/00482/HYB)
2023/00751/FUL	A	Pughs Garden Centre, Port Road, Wenvoe	Provision of a building to accommodate a pet shop and associated works

2023/00752/FUL	A	23, Colcot Road, Barry	Proposed single storey extension to the rear of existing domestic dwelling
2023/00759/FUL	A	Rose Cottage, Gileston	Construction of a free-standing garden workshop shed
2023/00761/FUL	A	17, Castle Avenue, Penarth	2 Storey rear extension comprising: 1) increased ground floor kitchen and dining accommodation. 2) Additional master bedroom to the rear with Juliet balcony. Ancillary work includes removal of side chimney and new front steps and surfacing
2023/00766/LAW	A	Brackendene, Burdonshill Lane, Wenvoe	The continued use and occupation of Brackendene following non-compliance with agricultural occupancy condition for a consistent period of 10 or more years
2023/00769/FUL	A	4, Church Avenue, Penarth	Take apart a length of garden wall at the far corner of rear garden. The stone wall will then be rebuilt in the same stone and location with a bevelled edge (rather than the current 90 degree corner)
2023/00775/FUL	A	Land on Hayes Road, Sully	Proposed new palisade fencing along boundary with Hayes Road
2023/00789/FUL	A	26, Llanmead Gardens, Rhoose	Proposed two storey rear extension, (demolish existing conservatory). All finishes to match existing
2023/00790/FUL	R	Endless Acres Stud, Peterston Super Ely	Erection of a pergola for the purpose of viewing youngstock and meeting new and existing clients.

			The Pergola could be securely fenced so that viewings are not in the paddocks when owners / trainers / would be purchasers come to view stock
2023/00795/FUL	A	Cornerways, Graig Penllyn	Proposed first floor side extension (with balcony) and new roof
2023/00799/FUL	A	35C, Albert Road, Penarth	Change of use of small former retail premises to residential
2023/00801/FUL	A	Palmer's Cottage, Barren Hill, Penmark	Two storey extension built over existing garage. Walls to have render finish to match existing, roof to be slated to match existing roof
2023/00814/FUL	A	Cliff Walls, Marine Parade, Penarth	Replace all existing upvc external windows and doors with new upvc units. Installation of new front door and glazed side screens to West elevation. Removal of existing rear conservatory and balcony structure and replacement with new sitting room to same floorplan and balcony/terrace over. Replace existing tiled roof over day room with new insulated flat roof construction with EDPM membrane finish and lead flashings. Solar panels to the South and West roof elevations. Redecoration of whole of the existing external facade and masonry paint
2023/00816/FUL	R	Greenacres, Morfa Lane, Wenvoe	Ground and first floor extensions to existing detached garage

2023/00818/FUL	A	Cwm Pennant, Park Road, Dinas Powys	Additional storey to existing dwellinghouse and balcony addition to lower ground floor
2023/00831/FUL	A	1, Church Road, Penarth	To demolish the existing boundary wall, which is beyond repair and to rebuild it, using as much salvaged stone as possible. It would be exactly the same height and length. The remaining stone to be sourced in similar material
2023/00835/FUL	A	Ty Pelican, Wesley Street, Llantwit Major	The addition of structure and insulation to the existing loft in order to form a loft conversion. The conversion incorporates Velux rooflights and solar panels to the pitched roof
2023/00846/1/N MA	R	15, Stanton Way, Penarth	Non Material Amendment - change of roof material. Planning permission ref: 2023/00846/FUL - Proposed loft conversion comprising hip to gable and new dormers to front and rear. To include new flat roof in place of pitched roof to existing rear extension
2023/00848/FUL	A	Ty Shwllac, Heol Shwllac, St Brides Major	Single storey rear extension and sunroom
2023/00849/FUL	A	Llandow Caravan Park, Llandow	Removal of Condition 2 of Application No. 2021/01666/FUL: The site shall not be used as a caravan site between 1st February and 28th February (29th February in a leap year) in any one year

2023/00850/FUL	R	Regenerate-it, 20-22, Holton Road, Barry	Conversion of part of first floor to four flats
2023/00857/FUL	R	Hillfields Farm, Pont Sarn Lane, Peterston Super Ely	Proposed part demolition and creation of new first floor, ground floor extensions and remodelling of existing property
2023/00866/FUL	A	114, Westbourne Road, Penarth	Proposed single storey side and rear extension with associated works
2023/00867/FUL	A	The Moorings, Highlight Lane, Barry	Single storey, pitched roof side extension to the house providing additional kitchen space
2023/00868/FUL	R	9, Caynham Avenue, Penarth	Proposed dormer to front elevation
2023/00881/RG3	A	Golau Caredig, Gladstone Road, Barry	Change of use from cafe to A2 one stop shop for support (not retail use)
2023/00882/FUL	R	1, Drylla, Dinas Powys	Erection of vertical timber fence to boundary
2023/00883/LAW	A	Little Mews, Hilton Farm, Colwinston	Continued use of former agricultural building as a dwelling
2023/00885/FUL	A	45, Seaview Drive, Ogmore By Sea	To retain existing balcony area to the first floor and at the front elevation
2023/00886/FUL	R	Sunningdale, Victoria Park Road, Barry	Internal reconfiguration creating new bathroom, open living room / dining with new balcony to rear of property and front single storey extension infilling existing porch area
2023/00891/FUL	A	53, Buttrills Road, Barry	Erection of a steel balcony to the rear of the property
2023/00900/FUL	A	139, White Farm, Barry	Construction of a detached garage to rear of property

2023/00902/FUL	A	48, Llanmead Gardens, Rhoose	Single storey rear extension to provide additional sitting area off existing dining room
2023/00903/FUL	A	12, Beverley Street, Barry	Single storey extension to rear of property together with side extension and balcony at first floor over ground floor utility room, to provide additional kitchen and bathroom space respectively
2023/00904/FUL	A	1, Clare Drive, Cowbridge	To demolish substandard lean to at rear of property and replace with a single storey extension in line with current building regulations, to provide a utility room
2023/00905/FUL	A	1, Grove Terrace, Penarth	Demolition of existing rear annexe walls, and construction of part single storey part two storey extension
2023/00907/LAW	A	21, Maes Y Ffynon, Bonvilston	Dormer loft conversion
2023/00908/FUL	A	22 Grove Terrace, Penarth	Single storey rear extension, new rear access and new side window.
2023/00914/FUL	R	Bryn Sion Chapel House, Penylan Road, St. Brides Major	The addition of a fully insulated garden office to the front garden to enable home working
2023/00915/FUL	A	2, Despenser Road, Sully	Proposed boundary fence
2023/00916/FUL	A	102, Main Street, Barry	Single storey side extension and rear dormer
2023/00917/FUL	A	Y Fedw Arian, 13, Church Hill Close, Llanblethian, Cowbridge	Change the old roof delta tiles on the dwelling and change the planning approval of delta tiles on

			new extension roof (previous application REF. 2022/00732/FUL') to Marley modern tiles 104 anthracite 36
2023/00919/FUL	R	Building adjacent former Albert Road Church, Penarth	Variation of Conditions 6 (Obscured windows) and 7 (Painting and Chimney) of Planning Permission 2022/00077/FUL: Change of use to mixed office space, community use spaces and lifestyle uses (B1a and D1 uses) and external alterations and window refurbishments / replacements
2023/00920/FUL	A	133 Stanwell Road, Penarth	Demolition of existing single storey utility to rear of property and addition of extension to rear of property on existing out rigger side elevation including addition of pergola to rear with associated landscaping
2023/00921/FUL	A	25A Archer Road, Penarth	Retrospective permission for the addition of 12 solar panels to the rear roof of the property
2023/00922/ADV	A	Dyffryn Springs, St. Lythans Road, Dyffryn	Entrance sign
2023/00923/FUL	A	3, St. Fagans Avenue, Barry	Proposed flat roof single storey extension to rear and small flat roof porch to the front of existing domestic dwelling
2023/00926/FUL	A	4, Croft Lane, Southerndown	Extensions to side and rear, external alterations, garden structures, means of enclosure, landscaping (as per extant planning permission 2021/01176/FUL) and

			extension of balcony to the rear (South West) elevation
2023/00927/FUL	R	95, Colcot Road, Barry	Proposed first floor extension over existing ground floor with external fire escape stairs
2023/00933/FUL	A	The Fox, Penllyn	Proposed entrance porch to include disabled friendly access ramp
2023/00937/FUL	A	5A, Goldsland Place, Barry	The construction of a single storey extension to the rear of the property, which will include the removal of the existing windows and section of the existing rear walls, which will increase the size of the existing bedrooms
2023/00943/FUL	A	41, Heol Y Frenhines, Dinas Powys	Install a 5kw Vaillant Arotherm heatpump. Sited under my kitchen window at the rear of the property within three metres of my boundary wall
2023/00952/FUL	A	21, Blodyn Y Gog, Barry	Installation of an air source heat pump to existing property. Exterior heat pump situation at 2m to boundary
2023/00960/FUL	A	46, Fontygary Road, Rhoose	Single storey rear extension, front porch and window alterations
2023/00961/FUL	A	2, Chamberlain Row, Dinas Powys	Single storey side extension to existing house
2023/00962/FUL	A	5, Bassett Road, Sully	Single storey extension to front of property, plus internal alterations and all associated works
2023/00973/FUL	A	5, Rowan Close, Penarth	Part single, part double storey extension and renovation of a detached

			house, replacing existing conservatory, garage and front porch
2023/00974/OBS	S	Y Bryn Wind Farm - Land at Bryn and Penhydd Forest, located between Port Talbot and Maesteg (CAS-01294-W3D7Y5)	Scoping Report Addendum - A wind farm of up to 18 turbines with battery energy storage and ancillary infrastructure

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **30 NOVEMBER 2023**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

3. APPEALS

(a) Planning Appeals Received

LPA Reference No: 2023/00202/FUL
Appeal Method: Written Representations
Appeal Reference No: CAS-02846-P3J2Q0
Appellant: Mr & Mrs R Davies
Location: Llanmihangel Cottage, Llanmihangel
Proposal: Proposed single storey extension to a dwelling used as a holiday let
Start Date: 25 October 2023

LPA Reference No: 2023/00203/LBC
Appeal Method: Written Representations
Appeal Reference No: CAS-02847-N8R6F0
Appellant: Mr & Mrs R Davies
Location: Llanmihangel Cottage, Llanmihangel
Proposal: Proposed single storey extension to a dwelling used as a holiday let
Start Date: 25 October 2023

LPA Reference No: 2022/00566/FUL
Appeal Method: Written Representations
Appeal Reference No: CAS-02859-C6N6K1
Appellant: Mr R Moss
Location: Fossil Cottage, Marcross, CF61 1ZG
Proposal: Change of use of holiday let accommodation to C3 residential dwelling
Start Date: 2 November 2023

LPA Reference No: 2023/00352/FUL
Appeal Method: Written Representations
Appeal Reference No: CAS-02861-L8F5R5
Appellant: Mr & Mrs Ponchard

Location: Sant Y Nyll Farm, Heol Sant Y Nyll, St. Brides Super Ely
Proposal: Proposed change of use of agricultural land to residential curtilage. Demolition of existing agricultural building and erection of detached domestic garage and store
Start Date: 3 November 2023

LPA Reference No: 2022/00931/FUL
Appeal Method: Written Representations
Appeal Reference No: CAS-02889-B6P1X0
Appellant: Mr Peter Reynolds
Location: **Cliff Haven Residential Home, 10 Clive Crescent, Penarth**
Proposal: Demolition of the existing single storey side extension, existing detached office and retaining walls and external staircases. Construction of a new single storey side extension at ground floor level and a new single storey rear extension at first floor level. Formation of a new rear terrace at ground floor level with excavations, new retaining walls and extended store. Internal alterations and reconfiguration of existing accommodation with new service lift. Refurbishment and restoration of existing external features. New pitched dormer windows on front elevation to replace existing box dormer. Change of use from existing residential care home (Residential institutions Class C2) to a new Daycare Nursery (Non-residential institutions Class D1).
Start Date: 7 November 2023

(b) Enforcement Appeals Received

LPA Reference No: ENF/2022/0192/PC
Appeal Method: Written Representations
Appeal Reference No: CAS-02553-Q5J6P6
Appellant: Miss Jo-Anne Watts
Location: **Land at Five Acres, St. Hilary, CF71 7DP**
Proposal: Without planning permission, the construction of an unauthorised building and decking structure in the approximate location outlined in blue on The Plan and its occupation for residential purposes.
Start Date: 16 October 2023

(c) Planning Appeal Decisions

LPA Reference No: 2023/00070/FUL
Appeal Method: Written Representations
Appeal Reference No: CAS-02796-Q6X2S4
Appellant: John McQuade
Location: **Tregolan House, Bradford Place, Penarth**
Proposal: Proposed driveway to front with public footpath
vehicle cross over
Decision: Appeal dismissed
Date: 20 October 2023
Inspector : Helen Smith
Council Determination: Delegated

Summary

Street Scene

The main issues were that by widening the opening in the front boundary wall to create a vehicle access for the proposed driveway would open up views into the frontage, exposing the hard surfaced driveway and parked vehicles, thereby disturbing the enclosed verdant qualities of the front garden and the traditional character and attractiveness of the street. The street scene is characterised by predominantly stone boundary walls with narrow pedestrian access gates, except for the adjacent site, The Lindens, which has a large access and driveway to serve the flats. Nonetheless, such entrances are in the minority along this part of the street, and overall, the visual continuity of stone front boundary walls are a prevailing characteristic that create a distinctive sense of enclosure.

The site is also located within the Penarth Conservation Area and the property has been identified as a 'Positive Building' in the Penarth Conservation Area Appraisal and Management Plan (CAAMP), recognising its positive contribution to this part of the conservation area. The CAAMP recognises that front gardens and forecourts make an important contribution to the ambience of the area and seeks to, amongst other things, resist proposals to remove or significantly alter traditional boundary walls. It states that small changes can, together, have a cumulative effect that damages the appearance of historic buildings and erodes the special character of the conservation area.

The verdant qualities of the appeal property's front garden and the continuity of the boundary wall significantly contribute to the distinctive character of the street scene. The widening of the existing pedestrian access, which is a typical feature in the street scene, to create a vehicular access would result in the removal of a section of the original front wall and pier, which form an important part of the historic fabric of the building's frontage. In addition, the creation of a hard surfaced driveway for a significant portion of the length of the front garden, together with the likely required earthworks, would erode the verdant character of the front garden. The proposal would create a wide crossover and an opening of contemporary proportions at odds with the traditional form of enclosures in the street.

Despite that the gap in the wall could be occupied by a metal gate forming a complete enclosure, gates are unlikely to be closed all of the time and the Inspector considered that this would not effectively mitigate the impacts of the widened opening.

For the foregoing reasons, the Inspector concluded that the proposed development would cause significant harm to the character and appearance of the area and would fail to preserve the character or appearance of the conservation area. This would be contrary to policies SP10, MD2, MD5 and MD8 of the LDP and the objectives of the SPG and CAAMP.

Other Matters

The Inspector had regard to the reasons for the proposal and the benefit of providing off-road parking and electrical charging points, and the wish to keep the area at the rear as a garden and play area. However, there is no cogent evidence that any of these matters should attract such significant weight as to outweigh the findings on the main issue. As such, it was concluded that the appeal should be dismissed.

LPA Reference No:	2021/00423/FUL
Appeal Method:	Written Representations
Appeal Reference No:	CAS-02110-Z3G0G4
Appellant:	Transworld Real Estate Ltd
Location:	Land at Bolston House, Bonvilston, CF5 6TP
Proposal:	Demolition of the existing dwelling and redevelopment of the site to accommodate residential development and associated works
Decision:	Appeal dismissed
Date:	8 November 2023
Inspector :	Melissa Hall
Council Determination:	Delegated

LPA Reference No:	2021/00424/CAC
Appeal Method:	Written Representations
Appeal Reference No:	CAS-02116-V8L7Z7
Appellant:	Transworld Real Estate Ltd
Location:	Land at Bolston House, Bonvilston, CF5 6TP
Proposal:	Demolition of the existing dwelling and redevelopment of the site to accommodate residential development and associated works
Decision:	Appeal dismissed
Date:	8 November 2023
Inspector :	Melissa Hall
Council Determination:	Delegated

Summary (Joint CAC and FUL Appeal)

Character and appearance

The principal issue is that the demolition of an approximately 10m section of the stone wall to the front fails to preserve the character of the site and the conservation area. The 2 – 3m high stone wall forms the southern site boundary abutting the highway, and screens much of the site from public vantage points. The site lies within the Bonvilston Conservation Area (CA) and the wall is identified as a 'significant stone wall' by the Council's Conservation Area Appraisal and Management Plan (CAAMP). The site lies at the centre of this linear conservation area, between two positive buildings and on the principal A48 highway. In this context, the roadside, front boundary wall constructed from grey limestone rubble blocks is a particularly notable and prominent feature of the site which, together with the tree coverage on the site, assists in maintaining a historic character to the village centre and makes a positive contribution to this part of the conservation area.

The CAAMP is clear that the Council will seek to resist proposals to remove or significantly alter traditional boundary walls and the Inspector concurred with this view. Whilst there is an existing vehicular access track, and therefore a gap, at the south-western corner of the site frontage, the loss of a section of the wall would have the effect of altering the solid to void ratio, creating a notably larger gap and undermining the robust and imposing appearance of the wall as it currently reads. As the width of the opening has some effect on the wall's contribution to the character and appearance of the conservation area, it follows that its alteration in the manner proposed would have a limited harm. Although the Inspector accepts that the scheme proposes the re-use of the stone from the demolished section of wall to create the splayed entrance, this would not offset the harm described.

Turning to the loss of trees on the site, the Inspector does not dispute that the existing tree cover makes a positive contribution to the character and appearance of this part of the conservation area, insofar as it provides a verdant setting to the built form, softening its impact. Whilst a number of trees would be felled to facilitate the development, they are predominantly groups comprised of ornamental planting and / or non-native, invasive or self-seeded specimens with only their unmaintained canopies visible above the front boundary wall. The vast majority of trees to be removed are low quality. That is, some of the mature trees would be retained with the application supported by a Tree Protection Plan, a Landscape Strategy and a Plant Schedule and Specification accordingly.

Whilst the Council makes reference to the 'suburban and insensitively designed/orientated internal site layout', the Stance Report suggests that it is only the southernmost plots / dwellings that would be clearly visible and open to view from the A48. It otherwise accepts that the general layout/orientation of dwellings proposed is likely to be well screened from public view. Hence, the Inspector considers the design and layout concerns are predominantly in respect of the orientation of the dwellings on the southernmost plots. The surrounding built form does not have a uniform character in terms of layout and orientation but comprises a mix of linear roadside development and more modern cul-de-sac development to the north. In particular, the existing dwellings immediately to the west of the appeal site, and which are visible from public vantage points, are orientated in the same manner as the closest units proposed here i.e., they each have a 'side' facing main entrance which

does not directly address the road frontage. The Inspector considered that the proposed development would therefore be read in the context of these closest neighbouring dwellings.

In coming to a view on this matter, the Inspector had regard to the appellant's contention that any dwellings orientated to face south would look onto, at close proximity, the retained high stone wall (with a resultant poor principal outlook for future occupants). To this end, the Inspector shares the concern that such an alternative arrangement would not represent good design. Consequently, the Inspector does consider the layout and orientation of the dwellings on the southernmost plots to be at odds with that of the surrounding built form to the extent that it would fail to preserve the character and appearance of the conservation area. The Inspector has also taken into account that the retained stone boundary wall would extend some 10m beyond the front elevation of the closest units, thus would continue to provide substantial screening of the development. Additional tree planting would soften the visual impact of the built form and, once mature, would filter and screen the development from public vantage points to a degree.

Overall, and whilst the Inspector has found only limited harm to the character and appearance of the conservation area by reason of the loss of a section of the wall, the Inspector concluded that the development would offend the duty in the Act to preserve the character and appearance of the conservation area and represents a minor conflict with LDP Policies SP10, MD2 and MD8 and the Bonvilston CAAMP Supplementary Planning Guidance in this regard. It would also be at odds with national planning policy guidance in Technical Advice Note (TAN) 12: Design and TAN 24: Planning and the Historic Environment.

Efficient use of land

The main issue here is that a density of circa 17.5dph is proposed, resulting in a density significantly below that advocated by Policy MD6, which requires that residential development proposals within minor rural settlements, should achieve a minimum net density of 25 dwellings per hectare (dph), so as to ensure the efficient use of land to meet identified housing needs and protect land for future generations. Lower densities may be permitted where it can be demonstrated that development at the prescribed densities would have an unacceptable impact on the character of the surrounding area, where 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. Significant site constraints exist here which result in a smaller developable area, broadly consisting of; (i) the access position and geometrical restrictions made by the vision splays and retention of much of the boundary wall; (ii) TPO'd trees and other good mature species worthy of retention; (iii) the proximity of houses to the eastern boundary; and (iv) the sustainable drainage needs which were not factored into the LDP dph figure.

The scheme shows the retention of a number of the trees which inevitably has an impact on the dwelling density that can realistically be achieved. However, the type and size of the dwellings proposed is a clear barrier to maximising the efficient use of the land. Housing density in the surrounding area is mixed,

with a wide range of housing types including terraces, detached and semi-detached dwellings of varying age, exhibiting a density and “grain” well under the 25 dph referred to in Policy MD6. Moreover, the proposal omits development from the north-western portion of the site which has dense tree coverage, and the plans show that the dwellings’ footprints are set away from the canopies of the mature trees to be retained. The Inspector further recognises that there is a balance to be struck between density, good design / layout and retaining features on the site which make a positive contribution to the character of the area. Therefore, the Inspector considers that developing this site to the density identified in Policy MD6 may be difficult.

The Inspector considers that the size of the proposed dwellings and their respective plot sizes would not be dissimilar to those in the surrounding built form. It must therefore be the case that the scheme proposes a mix of dwelling types within the site. On balance, therefore, the Inspector considers that the site would be developed efficiently and at an appropriate density having regard to the character and appearance of the area and the site’s constraints when balanced against the need to reduce the amount of greenfield land that may be required to meet the LDP housing targets. Accordingly, the Inspector has not found conflict with Policies MD5 or MD6 in this regard.

Highway safety

The submitted drawings show that the access would be a private drive arrangement leading to a shared surface over approximately half of its length at the back end of the site. The appellant contends that although it would have a reduced specification (in order to minimise the section of the stone boundary wall that would need to be removed), appropriate visibility splays would be provided at its junction with the A48 together with adequate space for the movement and turning of refuse vehicles. Additionally, the carriageway would be narrowed to provide a 2m wide footway along the site’s frontage.

The site is accessed directly from the A48. Concerns in respect of this matter relate to: (i) the omission of swept path analysis for western bound HGVs; (ii) the surfacing at the shared surface junction and the narrow footways proposed in this area; (iii) the adjustments needed to the A48 carriageway narrowing alignment; (iv) the asymmetrical kerb radii; and (v) the radii geometry, meaning a larger HGV accessing the site would have to use the entire access width, resulting in possible conflict with exiting vehicles. Hence, further and more extensive works would be needed in order to address these concerns, with resultant implications for the amount of the stone boundary wall that would be lost.

The appellant’s position is that further submissions were made post lodging of the non-determination appeals, which sought to address the issues raised in (i) – (iii) above. This included swept path analysis for all movements at the junction, amendments to the intersection between the 5.5m wide carriageway and shared surface, the removal of a dashed line around the perimeter of the shared surface to avoid any confusion that a segregated footway is proposed, and the tapering over a longer distance of the build-out / narrowing of the carriageway at the junction. Whilst the Inspector is unable to consider a

variation to the scheme, they are satisfied that these are detailed design matters that do not alter the substance of the proposal and could be dealt with by condition in the event of planning permission being granted.

The Inspector notes that the A48 is an A class road with a speed limit of 40mph, and flows in excess of 15,000 vehicles with greater than 5% of flows made up of HGVs. Although the representations of interested parties refer to vehicles travelling at speed together with a long history of accidents on this stretch of the A48, this has not been borne out by the evidence; the appellant's submissions confirm that only two 'slight severity' accidents have been recorded over a 10-year period covering 2012 to 2021 whilst the submitted Traffic Speed Survey (based on a 7-day traffic count to measure vehicle speeds in both directions adjacent to the appeal site) found that the 85th percentile speed of traffic was 36mph westbound and 38mph eastbound. The Council does not dispute this position.

The Inspector has also considered that the carriageway is wide with a relatively straight alignment, and clear views of oncoming traffic can be gained in both directions. They saw that there are a number of accesses serving individual dwellings along the stretch of the road in the vicinity of the site. They further consider that the need for HGVs to turn into the site is likely to occur infrequently, to the extent that the potential for conflict with existing vehicles is low to moderate. In any event, the driver of an approaching vehicle is likely to see the manoeuvre being performed well in advance and from a clear line of sight, and adjust their speed accordingly. Similarly, intervisibility between HGVs turning in and vehicles emerging from site would be adequate, with drivers likely to make allowances for slower moving and turning HGVs. The Inspector does not consider that such a situation would be unusual, especially frequent or markedly different from that which would already occur in association with the existing residential properties in the vicinity.

Therefore, the Inspector is of the opinion that the proposed access would strike an appropriate balance between ensuring that a safe means of access can be achieved whilst also respecting the character and appearance of the conservation area. The proposal would not compromise highway safety, consistent with the requirements of LDP Policies MD2 and MD5.

Living conditions

The Inspector recognises that the Noise Assessment focuses on road traffic on the A48 as representing the predominant environmental noise source at the site. It goes on to measure noise levels from two positions adjacent to this main highway, concluding that noise levels would fall within Exposure Category B as defined in TAN 11: Noise. It would not therefore give rise to serious concerns regarding the impact on the living conditions of future residents. However, over half of the proposed dwellings would have gardens adjoining the garden of the public house. Nevertheless, the Inspector understands that the Council's internal consultees (such as Pollution Control) have not raised any specific concerns in respect of this matter, nor does there appear to have been a corresponding request for further information during the course of the application to address any alleged shortcomings. Neither is

there any suggestion that the Council has received complaints in respect of activities and events ongoing in the public house and its associated garden.

Further, the Inspector does not dispute the appellant's contention that the public house sits within an otherwise densely populated residential area, and yet it continues to function appropriately. Whilst the Council makes reference to the representation received from the owners and operators of the public house, it seems that this correspondence merely clarifies that activities and events take place in the external areas of the premises. Given that the principle of residential development of this site is not at issue, and mindful that the existing uses appear to co-exist, the Inspector considers that this matter could be dealt with by a condition requiring a scheme of mitigation in the event of planning permission being granted. In doing so, the Inspector is satisfied that the proposed noise-sensitive development would not be incompatible with existing activities and, as such, future residents would not be subject to unacceptably high levels of noise that would have a harmful effect on their living conditions. Consequently, the Inspector did not find conflict with LDP Policies MD2 or MD7, which require new development to demonstrate they will not result in an unacceptable impact on residential amenity resulting from noise or with the overall aims of TAN 11: Noise.

Provision for affordable housing and infrastructure, services and facilities
The main issue here is the development's failure to provide any affordable housing or the infrastructure necessary to mitigate the impacts of the development in respect of public open space, education or sustainable transport. It is common ground between the parties that the submitted Viability Assessment demonstrates that the scheme cannot make provision for affordable housing or any other planning obligations. Notwithstanding this, and on the basis of the evidence, it is not certain what has been factored into the 'external and abnormal costs' associated with the project or why the education and sustainable transport contributions have not been included. Neither has the Inspector been given any explanation why the contributions and affordable housing provision have not been considered as anything less than an 'all or nothing' scenario.

The Inspector is not satisfied of the reasons given why this particular site in this area is experiencing viability issues or what alternatives have been considered to improve viability, for example, whether an alternative design, layout and/or timing has been explored in order to ensure that the proposal would be a socially responsible one. However, the Inspector has had regard to the fact that the development would provide some new open market housing which would make a modest contribution to meeting the LDP housing requirement, albeit the Inspector cannot be certain whether the mix meets the needs of the local community. However, the weight to be afforded to this benefit is reduced in light of: (i) the scheme's failure to provide affordable housing in an area where there is a policy expectation of it being delivered and (ii) the clear policy objectives requiring new development to meet its own demands by way of financial contributions to community infrastructure provision.

Therefore, in the absence of a detailed explanation, the Inspector is not clear why the development cannot proceed with any amount of affordable housing

or, indeed, any of the other community infrastructure benefits in the alternative. Neither is the Inspector convinced that the delivery of this site is so important that it should be permitted without mitigating its infrastructure impacts and providing an element of affordable housing. Consequently, and whilst conflict with LDP Policies MG4 and MD4 and the '*Affordable Housing*' and '*Planning Obligations*' SPG may not arise taking into account development viability, the development's failure to provide any affordable housing or the infrastructure necessary to mitigate the impacts of the development in respect of public open space, education or sustainable transport has not been justified.

Biodiversity

There is no dispute between the parties (including Natural Resources Wales (NRW) as the statutory nature conservation advisor) that the proposal, supported by an Ecological Assessment together with mitigation plans, would be acceptable subject to conditions. This includes a condition requiring the construction of a bat house to provide a compensatory roost. Nevertheless, the Council takes issue with the proposal's failure to satisfy the tests to justify a derogation for protected species.

The Inspector is aware that proposals for which development works would contravene the protection afforded to European Protected Species (EPS) require derogations under the provisions of the Habitats Directive. There are three tests for derogation, including that the development works to be authorised must be for the purposes of preserving '*public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature...*'.

Despite the shift in emphasis introduced by the Chapter 6 update to PPW, which requires the three tests for derogation to be taken into account, when considering development proposals where EPS is present (with the aim of avoiding developments with planning permission subsequently not being granted derogations in relation to EPS), the Inspector is also aware that whether a derogation licence is to be issued or not is a matter for NRW. However, given that the appeals are dismissed, it is of little consequence to the outcomes here.

Turning to the matter of arboriculture, the Inspector notes that the proposal includes the removal of in excess of 60 trees and their replacement with approximately 22 trees. The Council's adopted '*Biodiversity and Development*' SPG requires replacement tree planting on a 2:1 basis, equating to upwards of 120 trees being provided on site in this case. Although the Council accepts that this cannot be accommodated, it confirms that had the development been acceptable in all other respects it would have sought additional tree planting off site to meet the Section 6 duty in the Environment Act (Wales) to enhance biodiversity. Such an approach is broadly consistent with the updated PPW Chapter 6 requirements, notwithstanding that it requires replacement tree planting at a ratio of 3:1 rather than the 2:1 required by the Council's SPG.

The Inspector is also aware that the Council took issue with this scheme insofar as the application was not supported by an ecological enhancement

strategy. The Inspector considers the need for such a strategy is consistent with PPW in that it requires biodiversity enhancement, noting that the update to Chapter 6 of PPW now requires applications for planning permission to be accompanied by green infrastructure statements (describing how green infrastructure has been incorporated into the proposal). Therefore, the proposal would result in an inadequately mitigated loss of trees and an inadequate level of detail in relation to ecological enhancement measures, thus harming the biodiversity interests of the site. As such, the development would conflict with LDP Policies MD2 and MD9 and the Council's 'Biodiversity and Development' SPG which, overall, require new development proposals to conserve and enhance biodiversity interests and to provide ecological enhancements to promote biodiversity. Additionally, given that the scheme cannot accommodate replacement planting at a ratio of 2:1 required by the Council's SPG, it follows that neither can it meet the updated requirements of PPW.

Appeal B – CAC for demolition.

Turning specifically to **Appeal B**, and the CAC for demolition. In this case, the demolition of the dwelling is clearly part of a project which includes redevelopment. Hence without the completion of the project overall, the Inspector finds that the demolition of the building would be undesirable.

Conclusion

The Inspector found that the development would not give rise to any harm to the living conditions of future occupants as noise impacts could be controlled by condition. Similarly, any highway safety issues subject to details being agreed could be implemented through planning conditions.

Whilst the Inspector does not consider that it would represent an inefficient use of land, they have found limited harm to the character and appearance of the conservation area, by reason of the loss of a section of the stone boundary wall. This matter weighs against the development.

The Inspector has also weighed in the balance the development's zero contribution to affordable housing or the infrastructure necessary to mitigate the impacts of the development and the harm to the biodiversity interests of the site.

Overall, and although the effect of the works to the stone boundary wall on the character and appearance of the conservation area may not, of itself, necessarily have been a factor to justify withholding planning permission, the Inspector does not consider that the benefits described would be sufficient to justify this limited harm and the harms associated with the other main issues. The appeals are therefore dismissed.

(d) Enforcement Appeal Decisions

LPA. Reference No:	ENF/2021/0300/PC
Appeal Method:	Written Representations
Appeal Reference No:	CAS-02433-D0C4X4
Appellant:	Daniel Phillip Cooper
Location:	101, Port Road West, Barry
Proposal:	Without planning permission, the carrying out of operational development in the form of re-roofing the original dwelling and roofing the side extension to the original dwelling with grey tiles and the erection of a 1.80 metre boundary wall/fence.
Decision:	Appeal Dismissed
Date:	2 November 2023
Inspector :	Aidan McCooey
Council Determination:	Committee

Summary

Appeal on Ground (c): that there has not been a breach of planning control

The main issue is that the existing materials are the brown concrete tiles and the grey artificial slate materials used for the re-roof fail to match the existing. However, permitted development rights referring to alterations to the roof of a dwelling under Classes A, B or C of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (whichever applies) are all subject to a condition that “the appearance of the materials used in each element of any exterior work must so far as practicable match the appearance of the materials used in the equivalent element of the existing dwellinghouse”. The appellant contended that as the materials on the whole roof were replaced then there was nothing for the replacement roofing materials to match. However, the above condition clearly refers to the dwelling as existing prior to any works taking place and requires that the roofing materials used must match those on the existing dwellinghouse in order for the works to be permitted development.

The second issue is that Condition 2 on planning permission 2020/01082/FUL requires that the development shall be carried out in accordance with the following the approved plans and details. Plan numbers SV01 and PR01 have the existing finishes shown as brown concrete tiles for the roof. The drawings show the existing main roof and that of the extension in brown. Therefore, plan PR01 showed the materials of the extension to match those on the existing dwelling.

The Inspector therefore concluded that the re-roofing of the existing dwelling in grey artificial slate would not have been permitted development. The Inspector also found that condition 2 of planning permission 2020/01082/FUL refers to Plan PR01 Revision A and this plan shows the proposed roofing material as matching the existing materials. For these reasons the Inspector

concluded with the LPA that there has been a breach of planning control and the appeal on ground (c) is therefore dismissed.

Appeal on ground (a) – that planning permission ought to be granted

The main issue is the effect of the development on the character and appearance of the host dwelling and the wider street scene.

The alterations to the roof

The dwelling is in a prominent position at the end of a row of similar semi-detached properties fronting Port Road West. The roofs of these dwellings are hipped and have a similar brown concrete tile roofing materials. The appeal property has been extended and the entire roof covering has been changed to a grey artificial slate. This has a smooth and shiny appearance that contrasts sharply with the adjoining roof and others in the area. The contrasting slate finish has introduced a discordant feature in a prominent position close to a major thoroughfare in north Barry. The roof as constructed is detrimental to the character and appearance of the dwelling, the adjoining dwelling and to the wider street scene, contrary to Policies MD2 and MD5, and the SPG.

Whilst there are several variations in roof coverings in the wider area, brown concrete tiles are the prevailing roof covering. The context of the dwellings with contrasting roofs differs and no information on the planning history has been provided. For these reasons the Inspector did not consider that the examples of other properties with contrasting roof finishes provided by the appellant would justify approval of the appeal development.

The appellant also referred to a retrospective planning application for replacement roof tiles on 3 Council owned houses in St Nicholas that was approved at the same Planning Committee meeting as an example of inconsistency. In that case the original tiles could not be sourced without a 3-month delay and so a different tile was used. The report states that whilst the roof tile is of a larger format than the original tiles that they have replaced, it is still a small plain tile which together with the head lap used, will have a similar character and appearance on the roof to the original tiles, when viewed as a whole, particularly from the public realm within the conservation area. There is some minor variation to the colour used, however any replacement roof tile would not realistically be able to exactly replicate weathered tiles of this age and the roof as installed will weather in time. This is a case that was considered on its own merits and as the differences in appearance were minor it was considered that no harm would be caused to the “County Treasures” in a Conservation Area. The circumstances of that case distinguish it from the appeal development.

The boundary wall

The wall is set back in line with the front elevation of the dwelling. The impact is therefore to the side and rear of the dwelling along Highlight Lane. The enclosure of the side garden presents a contrast to other properties along this part of Highlight Lane, which mostly have more open plan front gardens with low walls. This forms part of the character of the area and the wall with fencing panels at such a height in close proximity to the edge of the footpath represents a dominant feature. The Inspector noted the desire to provide

privacy and security to the side and rear garden. The Enforcement Notice has only required that the wall be reduced to 1m high, and these considerations do not outweigh the objections to the wall/fence in terms of its visual impact and its adverse effect on the established character of the area.

The appellant has referred to three examples of corner plots nearby that have been enclosed in a similar manner. No planning permission has been granted for these means of enclosure and no complaints were received from the public. Two of the examples adjoin each other on Ridgeway Road, which is a shorter road and the two properties involved are the only houses on that one side. It was considered that the context is therefore different to the appeal site, where the fence is on a longer road with more open frontages. The Inspector considered that the three quoted examples of development undertaken without planning permission do not justify approval of the appeal development and the wall with fencing panels has an adverse impact on the character and appearance of the area and is therefore contrary to LDP Policies MD2 and MD5, and the Residential and Householder Development SPG.

Appeal on ground (g) - that the period specified in the notice falls short of what should reasonably be allowed.

The appellant seeks more time to comply with requirements (i) and (ii) in Section 6 i.e. those relating to re-roofing the property. The appellant's financial circumstances and the costs involved mean that extra time would be needed to raise the necessary funds. It is also claimed that the works would require strengthening of the roof timbers.

The LPA has pointed out that there may be cheaper lightweight alternatives available that match the colour and texture of the original tiles. However, given all the circumstances involved the Inspector has allowed the LPA's suggested compromise of 9 months rather than 6 months, to comply with requirements (i) and (ii). The appellant does not seek any variation of the period to comply with requirements (iii) and (iv).

Conclusion

For the reasons set out above, and having taken into account all matters raised, the Inspector concludes that planning permission should be refused. The Inspector considered that the period for compliance with steps (i) and (ii) in Section 6 of the notice should be extended to 9 months and the notice shall be varied in this respect prior to upholding it.

(e) April 2023 – March 2024 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed	Allowed	Total	
Planning Appeals (to measure performance)	W	12	2	14	-
	H	-	-	-	-
	PI	-	-	-	-
Planning Total		12 (86%)	2 (14%)	14	-
Committee Determination		1	1	2	-
Other Planning appeals (inc. appeal against a condition)		-	-	-	-
Enforcement Appeals	W	2	-	2	1
	H	-	-	-	-
	PI	-	-	-	-
Enforcement Total		2	-	2	1
All Appeals (excludes non validation appeals)	W	14	2	16	1
	H	-	-	-	-
	PI	-	-	-	-
Combined Total		14 (87%)	2 (13%)	16	1

Background Papers

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

Contact Officer:

Sarah Feist - Tel: 01446 704690

Officers Consulted:

HEAD OF SUSTAINABLE DEVELOPMENT

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **30 NOVEMBER, 2023**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

4. 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

2023/00786/TPO	A	Parkmount, Bridgeman Road, Penarth	Work to tree in a Conservation Area: Removal of Pine tree located in rear garden
2023/00911/TPO	A	3, Dros Y Mor, Penarth	Work to trees covered by TPO No.01 of 1996: Crown reduction by 30% to 2 common lime, 1 Sycamore and 1 Horse Chestnut
2023/00970/TCA	A	Foxglove Cottage, 1, Castle Mews, Llanblethian, Cowbridge	Work to trees in Llanblethian Conservation Area: Japanese Maple - In front garden - Trim regrowth back into a tighter tidier shape. Silver Birches - Over parking area - Crown lift and prune back from drive to give a more upright shape. Weeping Willow - rear garden over stream - Re pollard the upright stems, prune back over stream to gain 2m clearance of bamboo. Crown lift to 2m over lawn. Smaller Willow - In right hand corner -

			Reduce height to just over the fence
2023/00975/TCA	A	Meadow View, Boverton Road, Boverton	Work to trees in a Conservation Area: Reduction of approximately 3m height of 2 trees within curtilage of property
2023/00976/TPO	A	Marks And Spencer Plc, Culverhouse Cross	Work to trees covered by TPO NO.12 of 1994: Area 2 (highlighted RED on attached map) - Row of X7 medium sized London Plane trees in the car park, crown reduce all seven by 1-2m. Area 3 (highlighted in Yellow on attached map) - Cut the hedge line back by a minimum of 1ft
2023/00980/TPO	A	Old Farmhouse, Gileston	Work to Tree Preservation Order 1962: Crown lifting of a row of Leylandii tree (G1) to approximately 15-20 feet
2023/00993/TCA	A	13, Archer Road, Penarth	Work to tree in Penarth Conservation Area: Eucalyptus - rear - Repollard at previous points but also reduce some of the points in on the sides to narrow the trees canopy
2023/01005/TPO	A	Western side of Lettons Way, Dinas Powys	Work to Tree(s) covered by Tree Preservation Order 1954, No. 2 - Continual on going maintenance of the wood as per the professional advice of the contractor
2023/01035/TCA	A	Well Cottage, Llysworney	Work to trees in Conservation Area - T1 - Liquidamber - 20% crown reduction. T2 - Beech - 20% crown reduction. T3 - Mulberry - 10% crown reduction

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **30 NOVEMBER, 2023**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

5. ENFORCEMENT ACTION

a) LAND AND BUILDINGS AT PANT WILKIN STABLES, ABERTHIN

Executive Summary

This report seeks authorisation to issue Enforcement Notices (EN) under section 172 of the Town and Country Planning Act 1990 (as amended) in respect of a number of separate breaches planning control which have been carried out on the land and within various existing buildings at the site. The principal issue is whether the unauthorised development, involving both operational development and changes in the use of the buildings and land constitute acceptable development in this rural location or would have any adverse impact on the surrounding landscape and neighbouring properties.

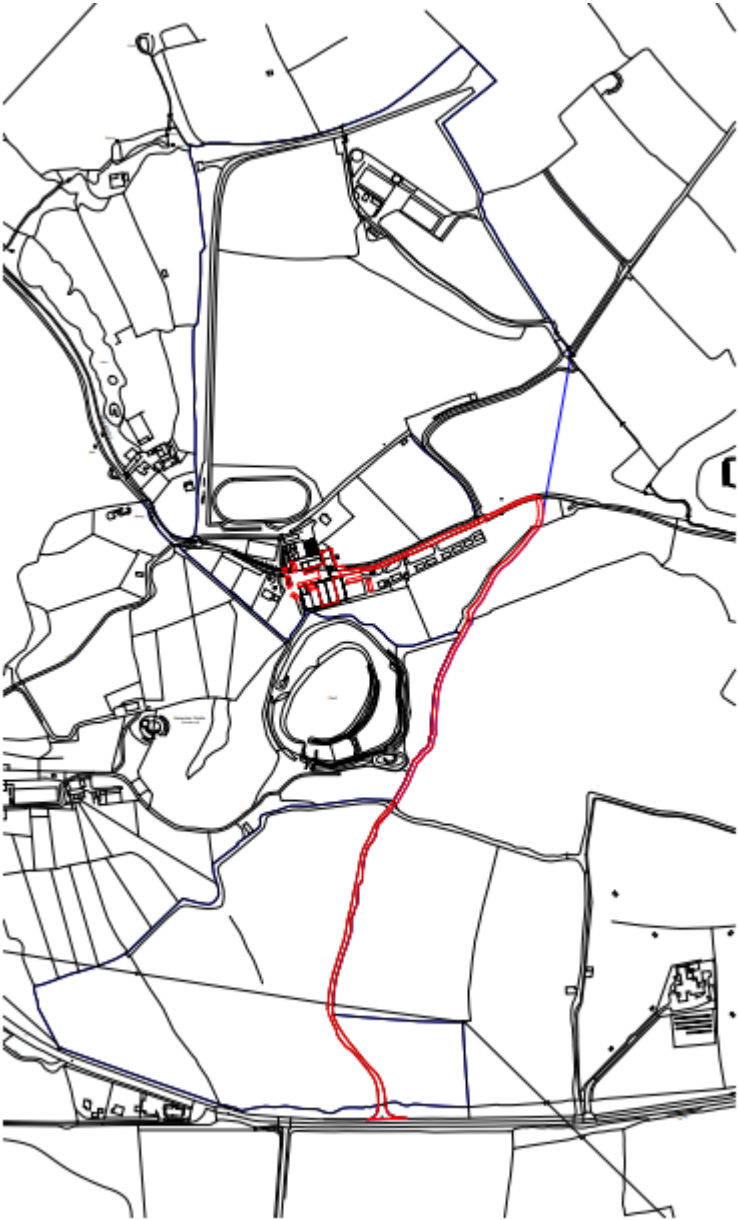
The breaches of planning control identified in this report have been the subject of extensive investigation. In some cases, the breach of planning control has arisen out of the breach of a previous planning consent, or following the refusal of a recent planning application. In other cases, the landowner has agreed to make an appropriate application to regularise the position, however no applications have been received that would have provided the opportunity for the position to be properly assessed and determined. The report therefore recommends that a number of ENs are issued, either to require the removal of development or to require the use of land and buildings to cease. Authorisation is also sought to pursue legal proceedings in the event that the ENs are not complied with.

Background and Site Description

1. A complaint was received by the Local Planning Authority on 31st January 2022 regarding the use of Llanquian Road in order to provide access to Pant Wilkin Stables, Aberthin which was contrary to a planning condition attached to application 2008/00743/FUL, relating to the retention of additional stables and other associated development. The complaint also referred to fact that a café had been set up within the training yard and was operating under the name of Fredwell Café. Whilst the matter of the use of Llanquian Road was subsequently investigated and resolved, the Council's investigation of the alleged café and other complaints received since 2022, has identified a number of other matters at the site which constitute breaches of planning control and are considered to require regularisation.
2. Pant Wilkin is a large commercial horse racing enterprise, located on land in the countryside north of the A48. It is approximately 3km north east of Cowbridge and 1km east of the village of Aberthin. Pant Wilkin is served by a

recently constructed access track which links it to the A48. The site is in the countryside, and partially within the Upper & Lower Thaw Valley Special Landscape Area (SLA). It is also partially located within the Llanquian Wood Site of Importance for Nature Conservation (SINC) and in proximity to two scheduled monuments (Llanquian Wood Camp and Llanquian Castle).

- 3. An area of the site is within Zone C2 for flood risk on the Development Advice map accompanying Technical Advice Note 15 (Development and Flood Risk) and a similar area is partly within Zone 2 and partly within Zone 3 on the 2021 Flood Map for Planning. The site is also partially located within an area considered to be at risk of surface water flooding. The site is within an area safeguarded for its limestone resources. There are also Public Rights of Way that cross through the site. A plan showing the extent of land forming Pant Wilkin stables is provided below:



Details of the Breaches and Action Pursued to Date

4. The land at Pant Wilkin Stables to which this report relates consists of mainly agricultural land which is used in association with the commercial horse racing enterprise and much of the recent development which has been granted planning permission at the site is associated with that business. Following the approval of planning permission on 6th July 2016 for the re-organisation of stabling for 53 horses and associated works, a new stable building was constructed in an elevated location to the north-east of the existing stable yard (2016/00480/FUL). Although a number of subsequent planning applications have been approved for development associated with the relocated stables and equestrian enterprise, there have also been complaints received relating to those consents and other activities undertaken on the land. Furthermore, two planning applications have recently been refused consent and have prompted further investigations in relation to development that has already been undertaken.
5. The current breaches of planning control which have been identified on the land forming part of Pant Wilkin Stables and the action pursued to date are set out below:

Use of Former Equestrian Buildings for Business Uses

6. Following the receipt of a complaint in January 2022 and investigation undertaken, it was identified that in addition to the establishment of a café at the site (Fredwell Café), a number of other former equestrian buildings had been converted to business uses including offices and a sofa warehouse (Chase Living). The former equestrian buildings are located surrounding the yard leading to the main dwelling at Pant Wilkin Stables and consist of mainly single storey timber and metal clad buildings.
7. In July 2020, a planning application had been approved for the change of use of some of the former stables to an Equine clinic, Equine rug wash company, Dog grooming parlour with dog day care facilities, a Dog and equine wholesale store and Animal Physiotherapy suite (2019/01154/FUL). The uses and buildings that were approved under application 2019/01154/FUL are detailed on the plan below:



8. As a result of the Council's investigation, new uses were however found occupying other buildings. The landowner was contacted and given the option of either removing the café, which appeared to be a newly built unit and ceasing the unauthorised uses, or submitting a planning application to retain the development. A further complaint was subsequently received that an arboriculture / tree services business had also become established in one of the former equestrian buildings and it was advise that the sawing and splitting of timber to produce firewood was causing a noise nuisance. The landowner was advised that this unauthorised use should also be included in the planning application he was intending to submit.



Fredwell Cafe

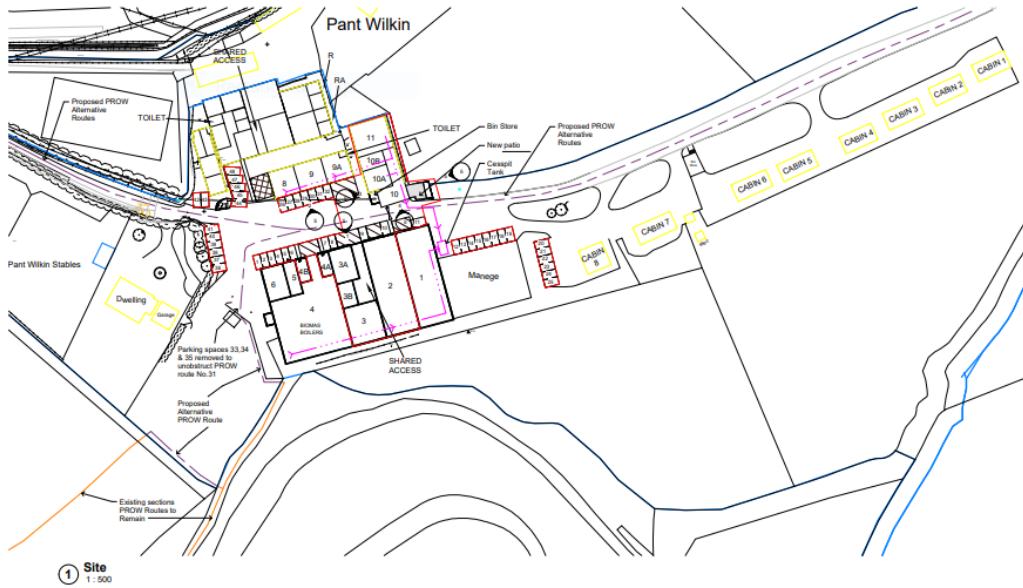


Chase Living Sofa Warehouse



Office Accommodation

9. On 2nd November 2022, a planning application was received for the 'Change of use of equine buildings to employment uses, storage uses and cafe, and associated works (part retrospective)' (2022/01222/FUL). The application sought the retrospective change of use of 10 separate units amounting to 987sqm of floor space to a mixture of uses including B1 (light industrial) and B8 (general industrial), together with the storage and distribution of domestic and garden furniture (371sqm) and a Café (101sqm). The application states that the uses were non retail rural type businesses that are typically seen at rural diversified sites and all of the buildings formerly stabled horses, but had become available for alternative uses when the upper stable yard had become established. The proposed site plan which accompanied the application is provided below:



- During a site visit undertaken on 4th September 2023 in connection with the above application, it was identified however that a number of the uses found within the units specified within the application, differed from what had been applied for and a number of further buildings were being used for a variety of business uses. Some of these uses were identified as B1 (office / light industrial), B2 (general industrial), B8 (storage) uses, however two of the units were being used as a children’s play centre and a bakery. One of the larger units (Unit 2) which was proposed to be used for the storage and distribution of domestic and garden furniture also appeared to be used for retail purposes.



Children’s Play Centre



Hare & Hounds Bakery



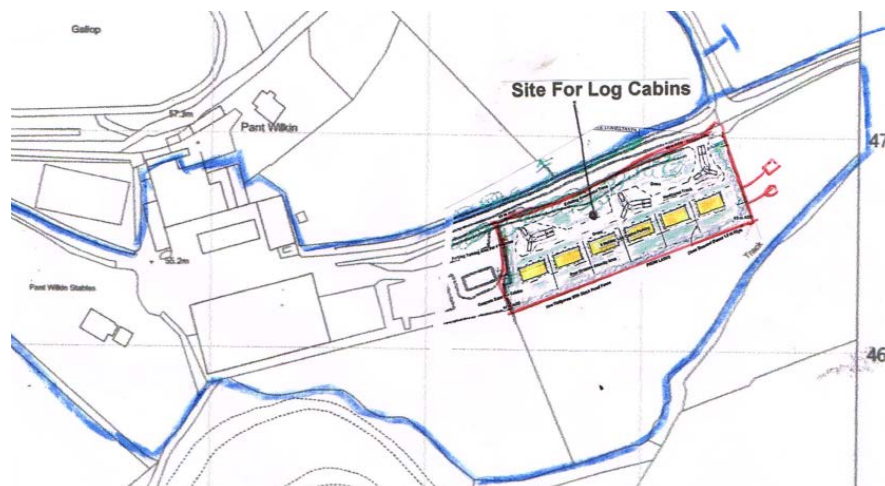
Chase Living Sofa Warehouse

11. The planning application submitted for the change of use of the 10 units (2022/01222/FUL) was assessed based on the application description and supporting plans, however this was refused on 19th October 2023. The reasons for refusing the application include that the proposed uses outlined in the submission documents would not support the principles of sustainable development and would not reduce the need to travel, particularly by private car, being sited in a location that would not be easily accessed by sustainable modes of travel. The proposals were also not supported by any justification that the nature of the businesses necessitated a location away from existing settlements or employment areas. The application proposal was therefore determined to be unacceptable and contrary to LDP policies SP1, MD1, MG13, MD14 and MD17 of the LDP as well as Planning Policy Wales (PPW).

12. Two further reasons for refusing the application related to the fact that the development was in a C2 flood zone, where the implications of flooding had not been adequately assessed and also that the addition of first floor windows on the rural buildings were considered harmful to their rural character and resulted in a domesticated / commercial appearance harmful to the rural setting of the building and wider site and also the appearance and character of the countryside. The application was therefore determined as being contrary to LDP policies MD1, MD2 and MD11 of the LDP and the advice set out in TAN 15 (Development and Flood Risk) and the Council's SPG relating to the Conversion and Renovation of Rural Buildings.
13. Following the refusal of application 2022/01222/FUL, a meeting was held with the landowner on 8th November 2023 to discuss why the existing uses are unacceptable and it was confirmed that enforcement action is likely to be taken to require them to cease. Correspondence has subsequently been received from the landowner's agent confirming that an amended planning application will be submitted removing the café and retail element / sofa warehouse, restricting the use of the buildings and including additional information to address the reasons for refusal. Concerns remain however regarding the number of units which are currently operating at the site, most of which are not related in any way to the horse racing enterprise and are not considered to justify a rural location.

Use of Holiday Log Cabins for General Rental Purposes

14. A complaint was received in March 2023 which suggested that the holiday cabins which were approved under application 2019/00783/FUL were no longer being occupied as holiday accommodation, but were being let for general residential purposes. A previous suggestion that the cabins were being used as staff accommodation had been investigated in 2022, however no breach had been identified.
15. In 2019, application 2019/00783/FUL had been approved for six holiday cabins and the approved site plan, which details the location of the cabins in relation to the stable yard, is provided below:



16. The Planning Statement accompanying the application suggested that the holiday cabins would be part of a rural enterprise diversification proposal sited

near to the lower yard and that the racing yard would provide an attraction to race minded tourists. Information provided as part of the application also suggested that the holiday cabins were intended to cater for the short break market and for families and small groups to holiday together for mainly weekend breaks. It was also identified that Cowbridge was well served by pubs, restaurants and shops, with the coast within a 20 minute drive.

17. The proposal was considered to comply with policies relating to rural tourism and the rural economy and was therefore approved subject to the following condition:

'3. The development shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of residence. An up-to-date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.'

18. During a site visit undertaken on 22nd March 2023, it was confirmed that none of the holiday cabins were being used as holiday accommodation and all were being used as either short or long-term lets. The landowner was contacted and advised that given the circumstances in which the holiday cabins were approved, it was very unlikely that the Council would consider changing the requirement of the condition. He was therefore asked to confirm how he intended to comply with the condition and advised that if the log cabins continued to be occupied in breach of the condition, it was very likely that the Council would take enforcement action to secure compliance.
19. In response the landowner advised that there was one cabin where the tenant was occupying on a full-time basis and that a search of the accommodation websites confirmed that three lodges were being shown as available. It was subsequently confirmed on 11th June 2023 that the accommodation was being operated through a letting agent, however he had asked that all future occupiers comply with the occupancy condition. It was confirmed however that the letting agent understood that the requirements for holiday accommodation was determined by different criteria, including that the property could not be occupied as a persons' sole or main place of residence and could not be occupied by any long term tenants for more than 155 days of the year.
20. During a subsequent site visit on 14th June 2023 with the agent responsible for letting the holiday log cabins, it was confirmed that their rental was not only restricted to people 'on holiday', but the cabins were also being let on a short and long-term let basis, including to people who using the cabin as temporary accommodation whilst they were waiting to move into other properties and also to people who were working in the area and required short-term temporary accommodation.
21. The landowner was sent correspondence on 14th July 2023 which confirmed that it was clear from both recent site visits, that despite being advertised as holiday accommodation, at least some of the cabins were not being used for this purpose and were being let out on both a short and long-term general

letting basis. It had also been confirmed by his letting agent that a number of the cabins were being let out as short and long-term lets to people who were working in the area, rather being used as holiday accommodation and this was considered to be in breach of the existing condition. In respect of the requirements for holiday accommodation identified by the letting agent, it was confirmed that these appeared to relate to a general letting use, rather than the holiday accommodation use to which the cabins were restricted. As a result it was confirmed that the Council was considering whether it was expedient to take enforcement action to require the unauthorised use to cease.

22. During a site visit on 4th September 2023, the position was discussed further with the landowner and he was advised to take the necessary steps to ensure that the condition was complied with. The Council has recently received correspondence from the letting agent confirming that adjustments have been made on one of the booking platforms to advise potential customers that the cabins are for holiday guests only. It was confirmed that where other platforms have no such facility, the wording on the welcome message and listings confirming that work or longer stay are not permitted, however it is confirmed that a self-check in system operates at the cabins and it cannot be guaranteed that people will reply. It has been advised that individual people's details including their registered address can be obtained from one of the booking platforms, however this would not in itself determine whether that person was using the cabins as holiday accommodation or for work.
23. As a result of the information obtained during the investigation, it appears that the holiday log cabins have been let out for both holiday accommodation and short and long-term letting. The original site visit in March 2023 identified that one of the cabins has been let out on a continuous basis since the summer of 2020 and during a recent meeting with the landowner, it was confirmed that the same tenant remains in occupation.
24. Whilst it would appear that some efforts are now being made to prevent the use of the cabins other than as holiday accommodation, the booking systems that are being use for the cabins, whilst alerting potential customers that they are for holiday accommodation only, would not prevent a booking from being made for non-holiday use. Concerns also remain that at least one of the cabins has been let on a long-term basis in breach of the planning condition and essentially occupied in the same way as a residential dwelling. It is therefore considered that unless enforcement action is taken to require this unauthorised use to cease, the use would be immune from enforcement action, as the building would have been occupied as a residential dwelling for over 4 years.

Motor Cross Activities

25. A complaint was received in September 2021 regarding the establishment of a motorcycle track in a field located adjacent to the new access and north of the A48.

26. The landowner was contacted and advised that whilst alternative uses could be carried out on land for up to 28 days of the year under Part 4 of Schedule 2 of the Town and County Planning (General Permitted Development) Order 1995 (Temporary Buildings and Uses), the number of days was restricted to 14 if the use involved motor cycle racing including practising for these activities. Confirmation was sought regarding the number of days on which the alternative use of the land had occurred and whether the land had reverted back to the lawful use of the land in between events.
27. In response, the landowner confirmed on 5th October 2021 that he had already received contact from the Council's Shared Regulatory Service (SRS) regarding the activity. He had harrowed a small track on the land adjacent to the A48 which was being used by his son to ride a 50cc motorbike once a week for approximately one hour and two friends had also used the track on two occasions in the last three months. It was confirmed that the track was not for hire or reward and had been used by his son on 7-8 occasions.
28. It was confirmed to the landowner on 5th October 2021 that whilst the use that had been described was not an organised or commercial event, the relevant regulations did not differentiate between organised or informal uses and therefore, the use of the land involving motorcycling could only be carried out for a total of 14 days in any calendar year before planning permission was required. It was advised that provided that the number of days did not exceed 14, no further action would be taken, however the landowner was advised that further action could be taken by SRS in relation to the noise. Following the provision of this advice, no further complaints were received to suggest that the activities were continuing.
29. Following the receipt of a further complaint in April 2023 and information provided which suggested that the motor cross activity had taken place on a number of occasions exceeding 14 days, the matter was discussed with the landowner during a site visit on 31st May 2023. The landowner confirmed that his personal use of the field had not exceeded 14 days, however it was confirmed that the field had been used by other third parties, without his consent. He was asked to provide confirmation of the dates when the field had been used by himself and other third parties. It was also confirmed that as a result of the construction of soil ramps on the land to be used in association with the motor cross activity, it was considered that the use of the land was no longer considered to be temporary. The landowner was requested to confirm whether it was his intention to submit a planning application for the use and was requested to cease the use of the land.
30. In response, the landowner confirmed on 9th June 2023 that he was concerned that the field had been used without his consent and he had placed signs on the land confirming that it was private land to ensure that it didn't happen again. It was suggested that the ramps were temporary and the use was not intended to be continuous.



Motor cross track with soil ramps

31. The landowner was advised on 14th July 2023 that it was not relevant or material who was undertaking this activity, only that the activity was taking place which appeared to be causing a noise disturbance. The ramps were considered to form permanent structures in the field i.e. they are not removed in between each motor cross use to enable the land to be used for agricultural purposes. In the absence of the appropriate planning consent, the landowner was again requested to cease this activity immediately and remove the ramps and it was confirmed that it may be expedient for enforcement action to be taken as the unregulated use of the land for this purpose would be unacceptable.
32. The landowner confirmed on 3rd August 2023 that the motor cross activity had taken place on 8 occasions between 25th March 2023 and 6th July 2023. It was confirmed that the use of the land had never intended to be for monetary return / reward and that he would ask his planning agent to prepare and submit a planning application. At the time of preparing this report, no planning application for this use of the land had been received.

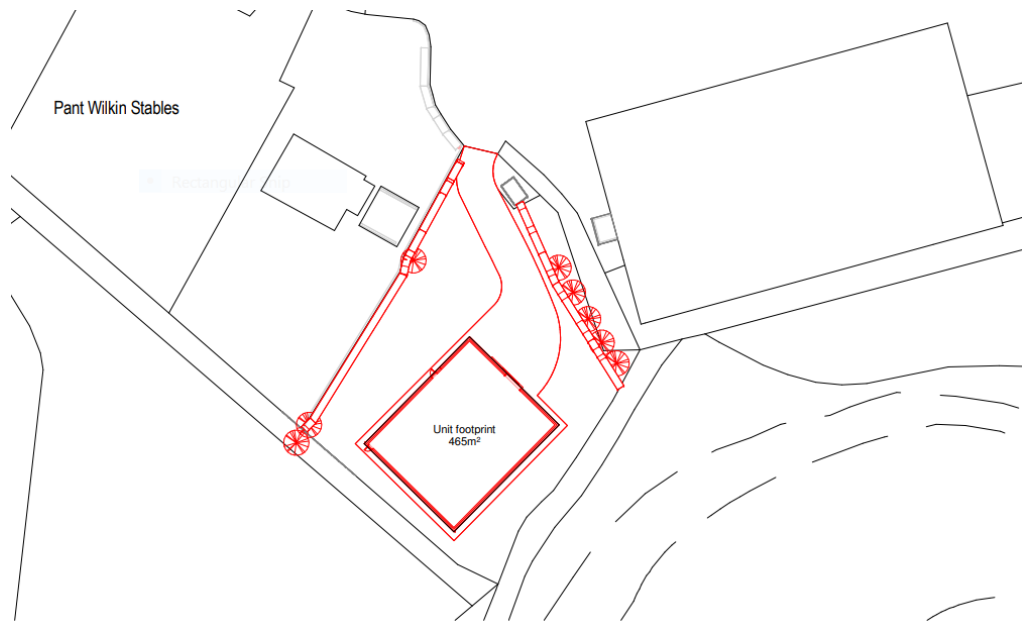
Commercial Building (in place of Agricultural 'Sheep' Building)

33. In May 2023, it was identified that an alternative building to that approved under application 2022/00502/FUL was being constructed adjacent to the lower yard.
34. By way of background on 23 October 2022, planning permission was granted for an agricultural building for sheep, fodder, farm machinery and equipment (2022/00502/FUL) which was to be sited adjacent to the existing yard and to the south-east of the existing dwellinghouse. The proposed building was to be approximately 23.55m in length by 19.74m in width, with an eaves height of 2.8m and ridge height of 3.99m. The walls were proposed to be finished partly in concrete block and partly in timber spaced boarding, with the roof finished in

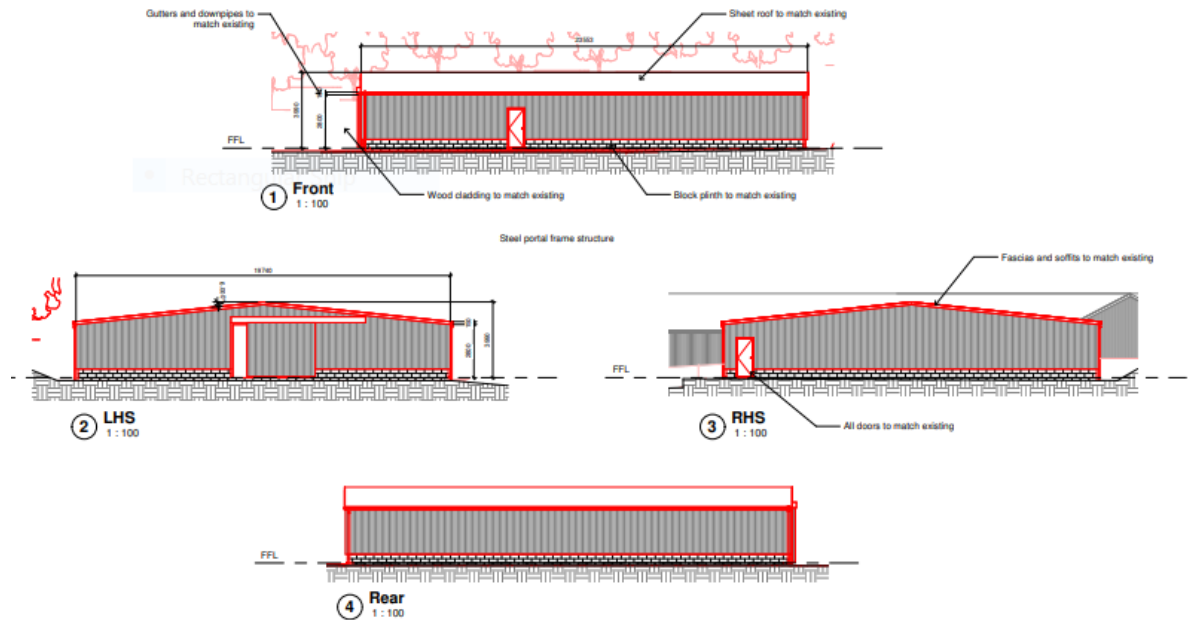
grey fibre cement slate. The stated purpose of the building was to accommodate sheep and during the determination of the application, the landowner confirmed that he had purchased 17 ewes earlier in the year, but these were being kept at a farm elsewhere until he was set up to keep them permanently. A planning condition was attached to the decision which contained the following requirement:

'3. The agricultural building hereby approved shall be used solely for agricultural purposes as set out within this application and shall not be used for any other purpose whatsoever. In the event that the use of the agricultural building hereby approved permanently ceases, the building shall be removed from the site along with all associated fixings and the ground shall be returned to its former condition as grassland within 6 months of the permanent cessation of the use for agriculture.'

35. Details of the approved plans are provided below:



Proposed site plan



Proposed elevations

36. A further site inspection on 14th June 2023 confirmed that the building being constructed had different dimensions to the approved agricultural building and was being built in a different location being, located immediately adjacent to the south-east corner of the site. The building had also been constructed with a cavity wall and divided into two separate units each of which was dry lined with a roller shutter doors located on the north-west side. The land surrounding the building had also been tarmacked and had been laid out as a car park, whereas a narrow road was shown leading to the approved agricultural building.
37. The landowner was advised that a number of discrepancies with the approved plans had been identified, including the size, design and location of the building and he was asked how he intended to regularise the position.
38. The landowner confirmed on 3rd August 2023 that the building was longer but a lot narrower and it was confirmed that the reason for this was to enable machinery to be moved in and out more efficiently as it would have been difficult from one entrance. It was confirmed however that his planning agent would seek to regularise the position.



View from north-west

39. During a subsequent site visit on 9th October 2023, it was identified that the building was being used by an aircraft stair manufacturing company for commercial storage purposes and the far unit was being used for spray painting.



View from north showing building in commercial use



View of building from Stalling Down

40. During a meeting held with the landowner on 8th November 2023, it was confirmed that due to the significant differences between the constructed building and approved plans, it was considered that the building constructed was not that which had been approved under 2022/00502/FUL and that a new planning application would be required. It was also considered that condition 3. attached to the consent could not be enforcement against as it was not the building approved under application 2022/00502/FUL that had been constructed. It was also advised that it was questionable whether there was any justification for a new commercial building in this location and therefore, no guarantee that a further application would be considered favourably. At the time of preparing this report, no planning application for this building had been received.

Excavation of Land adjacent to Equine Hospital

41. During an officer site visit undertaken in April 2023 in relation to planning application 2022/01305/FUL for an 'equine rehabilitation building' to the north-east of the upper stable complex, it was identified that additional engineering works had been carried out to the north-west of the proposed application site.
42. A further site visit on 31st May 2023 confirmed that engineering / excavation works had been undertaken in an area to the rear of the upper stable complex. The landowner advised at the time of the visit that works had needed to be undertaken to repair a recent landslide in that area and were included as part of a recently approved application 2022/00808/FUL.



View of excavated area from the south

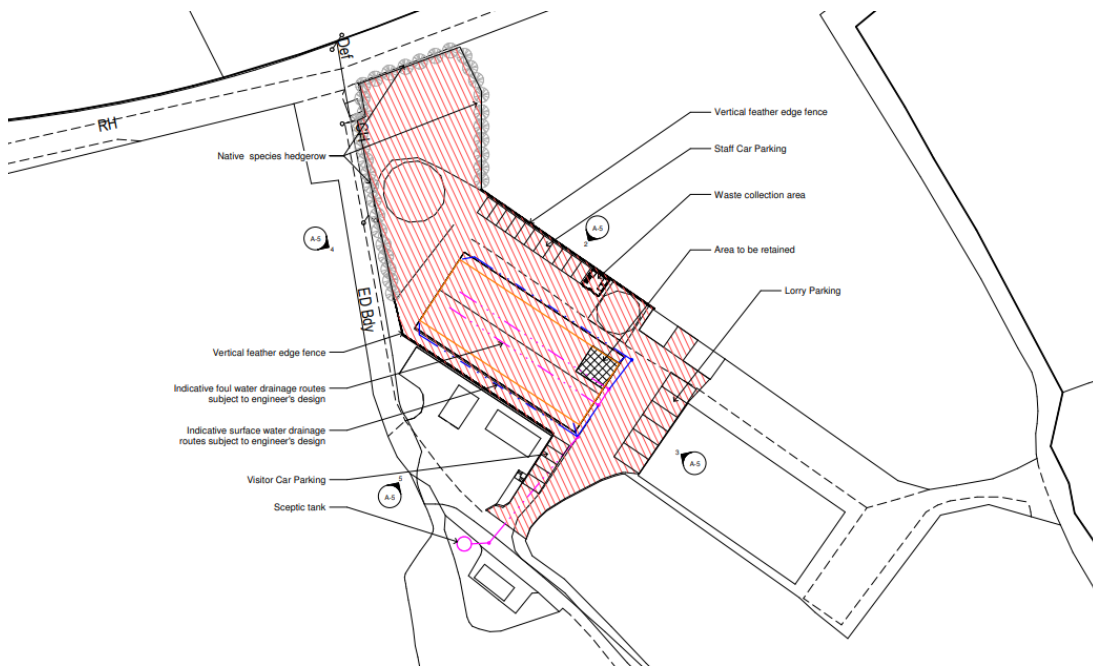


View of excavated area from the south-east

43. Application 2022/00808/FUL was approved on 3 April 2023 for the 'retention of stable block and yard as built and change of use of stables to a mixed use of stables and equine veterinary hospital with ancillary offices and facilities' (2022/00808/FUL). The approved location plan identifying the application site boundary outlined in red and proposed site plan is provided below:



Approved location plan for 2022/00808/FUL



Approved proposed site plan for 2022/00808/FUL

44. The red hatched area shown on the above plan indicates the area of land which was proposed to be adopted by the equine vets and included land to the north of the circular horse walker, where the excavations works had been undertaken, However, this area of land falls outside of the application site boundary and no plans showing the details or extent of the excavations works or resulting land profiles had been approved as part of the application. It has therefore been concluded that these engineering / works were not included or approved as part of application 2022/00808/FUL.
45. The landowner was advised on 5th June 2023 that the excavations works undertaken were considered to extend beyond what would reasonably be required to repair a landslide and were considered to constitute an

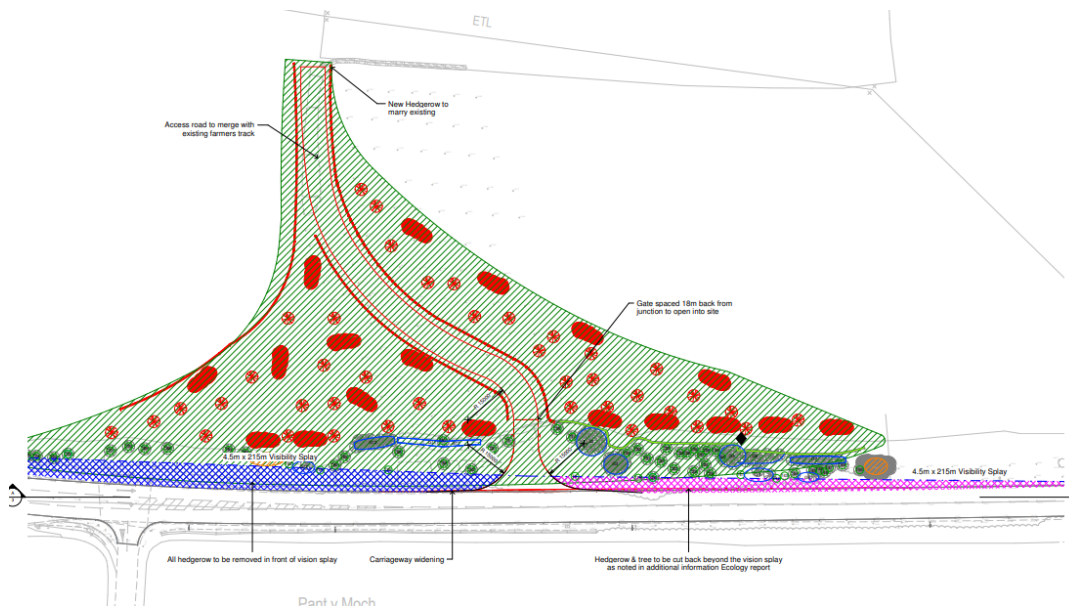
engineering operation which required planning permission. Although the landowner had suggested that the works were included as part of his recent application approved on 3rd April 2023, it was confirmed that application 2022/00808/FUL related to the retention of the stable block and yard and the change of use of stables to stables and an equine veterinary hospital with ancillary facilities and there were no details on the file relating to these engineering works. It was also identified that the excavation works undertaken were also outside of the application site and therefore needed to be regularised. It was requested that all engineering works in this area cease until the position was regularised.

46. In response, the landowner confirmed on 9th June 2023 that he had understood that the approved plans included the additional area where works had been undertaken. He advised that he had always been asked to lower the site slightly and had done same here, lowering the paddock to a flat level surface to allow the vets to turn the horses out in the day if required for welfare reasons. It was confirmed that land had always been a paddock and there was therefore not change of use in this area.
47. It was confirmed on 14th July 2023 this land fell outside of the area to which application 2022/00808/FUL relates and there was no suggestion that extensive engineering and excavation of the land would be undertaken. It was advised that the plan referred only to the planting of a 'native species hedgerow' which would not have required consent. The engineering works therefore required planning consent and it was suggested that a further planning application would be required to regularise these works and include details of any further engineering / reprofiling works that were proposed. At the time of preparing this report, no planning application for these works had been received.

Land Filling Adjacent to A48

48. Following a complaint received in June 2023 that additional materials were being imported onto the land on the west of the new access from the A48 to reprofile the land, the landowner was asked on 5th June 2023 to provide further clarification regarding these works and when they were likely to be completed.
49. The landowner confirmed on 9th June 2023 that he had spoken to the contractor and that more recent piles were from the excavation works for new piping on the A48 which he had been requested to undertake as part of his section 278 Highways agreement. He advised that no land filling had taken place and the ground needed levelling off and restoring to agricultural land. It was confirmed that the contractor was hoping to complete the levelling off in the next 2 - 3 weeks and it would then be complete, other than some drainage works that had been requested.
50. The landowner was advised on 14th July 2023 that following a recent site visit, it appeared that there had been a considerable volume of materials brought onto the land to the north of the site which did not appear to have formed part of the previous application for the access off the A48 (2020/00720/FUL). This application only included the use of consolidated stone and tarmac for the

access and the landowner was asked to confirm where the additional imported materials were included as part of the consent for the new access. A copy of the approved plan for the access showing the extent of works is provided below:



51. The landowner's response received on 3rd August 2023 advised that he had levelled off the site as agreed and that some topsoil would be applied from within the site and it would then be reseeded and returned to agricultural use. The access road had been finished as requested by highways, with the exception of two new pipes and the drain covers.
52. The landowner has not provided any further information in relation to the land filling, however it would appear from the investigation undertaken and photographs taken of the site, including from Stalling Down, that some land filling has taken place that was not included within the approved application for the access (2020/00720/FUL) and therefore constitutes unauthorised engineering works.



View of area to west of new access looking towards A48



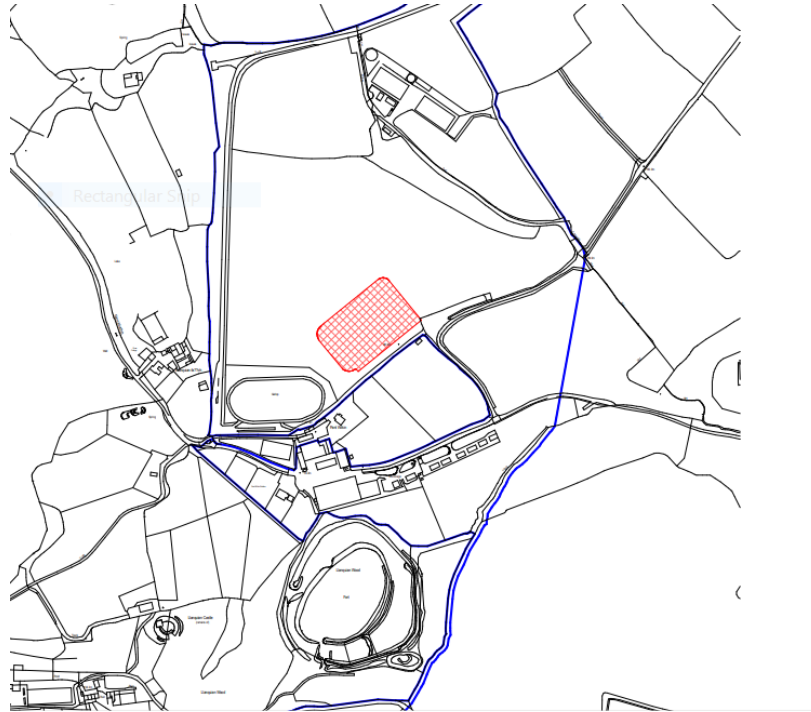
View of area to west of new access looking north-west



View of area to west of new access taken from Stalling Down.

Ground Works for Proposed Event Parking Area

53. Following a complaint received regarding ground engineering works being undertaken on an area of land adjacent to the menage, an application was received on 29th September 2022 for the 'Formation of event parking area for equestrian use (part retrospective)' (2022/01084FUL).
54. The application details confirmed that surplus sub-soil from previous developments at the upper stable yard had been used to level up a site adjoining the menage arena at the lower yard. The site would then be surfaced in stone to form a levelled parking area for vehicles in association with use of the arena for equestrian events. It was advised that part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 would allow a change of use of the arena for equine events for up to 28 days a year, however if the number of planned events exceeded 28 days per year, a formal application would be submitted to extend the arena use. Details of the location of the proposed event parking area are shown on the plan below:



55. Following the officer's consideration of the application, it was determined however that as the proposal would result in the loss of good quality agricultural land and that the introduction of a hardstanding area for parking would represent an inappropriate form of development in the countryside and was therefore unacceptable. The application was therefore refused planning permission on 25th September 2023.
56. During a recent site visit on 9th October 2023, it was identified that some engineering works had been undertaken in this area involving the importation of soil and levelling of the land which constitutes an engineering operation and requires planning permission. This can be seen in the photographs below, firstly from within the site to the north, and secondly, from Stalling Down.



View of the event parking area from the north



View of the event parking area from Stalling Down

57. During a recent meeting with the landowner on 8th November 2023, he indicated that it was his intention to submit a further planning application which would seek to address the soil quality and landscape issues. At the time of preparing this report, no further planning application for the event parking area had been received.

Planning History

58. The site benefits from the following planning history:

2007/01481/FUL: Change of use of farm buildings to national hunt training yard with horse walker and gallops - decision: approved

2008/00743/FUL: Retention of additional stables, 2 horse walkers and refurbishment of part building 2. Retention of increase in width of gallops – decision: approved

2008/01071/FUL: Siting of mobile home for 3 years for yard manager with treatment plant and gas tank. Erection of office/ owner's reception area/ grooms rest room (part retrospective) – decision: approved

2009/00514/FUL: Erection of building for 22 stables and feed store (part retrospective), 2 isolation stables and retention of 5 pens within existing building – decision: approved

2009/00517/FUL: Retention of cover over horse walkers. Retention of two horse walkways – decision: approved

2009/00950/FUL: Erection of lean to provide 5 stables – decision: approved

2009/00951/FUL: Retention of viewing platform – decision: refused

2009/01224/FUL: Erection of building to house 2 horse walkers – decision: Approved

2009/01257/FUL: Retention of viewing platform - resubmission with landscaping scheme – decision: approved

2009/01297/FUL: Provision of hardstanding parking area for vehicles and access track – decision: withdrawn

2010/00802/OUT: Outline application for dwelling with annex and garage for manager/proprietor of Pant Wilkin Stables, with treatment plant and access included – decision: approved

2010/00834/FUL: Erection of stables (nos. 79 to103), lean to hay barn, extension to staff rest room/office facilities and provision of staff/visitor parking area, using the existing access off the A48 – decision: approved

2011/00441/PD: Manege area – decision: permitted development

2012/00361/FUL: Temporary re-siting of log cabin, gas tank, garden shed and treatment plant for two years, provision of manege, circular canter and schooling jumping lane – decision: approved

2012/01152/FUL: Dwelling house with treatment plant drainage and access, in connection with racing stables – decision: approved

2013/00698/FUL: Change of use to 400 m Gallops and return walking track for stables – decision: approved

2014/01113/FUL: Renewal of temporary permission for log cabin and associated works for two years - decision: approved

2019/00075/FUL: Erection of stables and associated works – decision: approved

2019/00447/FUL: Regularisation of change of use of the on-site office building to an office building and two self-contained flats; change of use of a barn from an equine use to an equine use and three self-contained flats at first floor; change of use of a further equine barn to a residential use by virtue of the housing of four static caravans within; and retention of a single dwellinghouse (log cabin) and associated gas tank and outbuilding – decision: pending
2019/00783/FUL: Provision of 6 holiday log cabins, treatment plant drainage and associated works – decision: approved

2019/01154/FUL, Pantwilkin Stables, Llanquian Road, Aberthin, Change of use of former stables to equine clinic (lameness and stomach disorders), equine rug wash company, dog grooming parlour and dog and equine wholesale store, cattery – approved.

2020/00720/1/CD, Pant Wilkin Stables, Llanquian Road, Aberthin, Discharge Conditions 4 & 5 of planning permission 2020/00720/FUL:-Provision of new Access to Pant Wilkin Stables – approved

2020/00720/2/CD, Pantwilkin Farm House, Llanquian Road, Aberthin, Discharge of Condition 11 (Permanently stop up access Llanquian Road) - Planning approval 2020/00720/FUL - Provision of new access to Pant Wilkin Stables – approved

2020/00720/FUL, Pant Wilkin Stables, Llanquian Road, Aberthin, Provision of new Access to Pant Wilkin Stables - approved

2021/00449/1/CD, Pantwilkin Stables, Llanquian Road, Aberthin, Discharge of Condition 2 (CTMP). Planning approval 2021/00449/FUL - Provision of new internal access road (retrospective) and new hedgerow,

2021/00449/FUL, Address: Pant Wilkin Stables, Llanquian Road, Aberthin, Proposal: Provision of new internal access road (retrospective) and new hedgerow,

2021/00588/FUL, Pant Wilkin Stables, Aberthin, Assistant trainers dwelling, use of an existing access - approved

2022/00502/FUL, Pantwilkin Stables, Llanquian Road, Aberthin, Agricultural building for sheep, fodder, farm machinery and equipment - approved

2022/00808/FUL, Pantwilkin Stables, Llanquian Road, Aberthin, Retention of stable block and yard as built and change of use of stables to a mixed use of

stables and equine veterinary hospital with ancillary offices and facilities - approved

2022/01084/FUL, New House, Pantwilkin Stables, Aberthin, Formation of event parking area for equestrian use (part retrospective) – refused

2022/01222/FUL, Pantwilkin Stables, Aberthin, Change of use of equine buildings to employment uses, storage uses and cafe, and associated works (part retrospective) – refused

2022/01237/FUL, Pantwilkin Stables, Aberthin, Change of Use Planning Application for 36 additional bespoke 5* Luxury Holiday Lodges at Pant Wilkin Stables, - undetermined

2022/01305/FUL, Pantwilkin Stables, Aberthin, Equine rehabilitation building - approved

2023/00234/FUL, Pantwilkins Stables, Aberthin, Provision of three fishing lakes (farm diversification) and associated works – undetermined

Planning Legislation

59. Section 173 of the Town and Country Planning Act 1990 states that in relation to the contents and effect of an enforcement notice:
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
 - (4) Those purposes are -
 - (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - (b) remedying any injury to amenity which has been caused by the breach.
 - (5) An enforcement notice may, for example, require -
 - (a) the alteration or removal of any buildings or works;
 - (b) the carrying out of any building or other operations;

Policy and Guidance

60. Welsh Government advice on the enforcement of the planning control is found in the Development Management Manual (Revision 2, May 2017). It states that, 'When considering enforcement action, the decisive issue for the LPA should be whether the unauthorised development would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.'

Local Development Plan:

61. 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 SP9 – Minerals
POLICY SP10 – Built and Natural Environment
POLICY SP11 – Tourism and Leisure

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 MD8 - Historic Environment
POLICY MD9 - Promoting Biodiversity
POLICY MD11 - Conversion and Renovation of Rural Buildings
POLICY MG13 - Edge and Out of Town Retailing Areas
POLICY MD14 - New Employment Proposals
POLICY MD17 - Rural Enterprise

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

Future Wales: The National Plan 2040:

62. Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process. The following chapters and policies are of relevance in the assessment of this planning application:

Chapter 3: Setting and achieving our ambitions

- 11 Future Wales' outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

Chapter 4: Strategic and Spatial Choices: Future Wales' Spatial Strategy

- Guiding framework for where large-scale change and nationally important developments will be focussed over the next 20 years.

- Strategy builds on existing strengths and advantages and encourages sustainable and efficient patterns of development.

Chapter 5 – The Regions

- The Vale of Glamorgan falls within the South East region.
- Regional policies provide a framework for national growth, for regional growth, for managing growth and supporting growth.
- In the absence of SDPs, development management process needs to demonstrate how Future Wales' regional policies have been taken into account.

Policy 1 – Where Wales will grow

- Supports sustainable growth in all parts of Wales.
- Development in towns and villages in rural areas should be of an appropriate scale and support local aspirations and need.

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

- Based on strategic placemaking principles.

Policy 4 – Supporting Rural Communities

- Supports sustainable and vibrant rural communities.

Policy 5 – Supporting the Rural Economy

- Supports sustainable, appropriate and proportionate economic growth in rural towns.
- Supports development of innovative and emerging technology businesses and sectors to help rural areas unlock their full potential, broadening the economic base and creating higher paid jobs.

Policy 8 – Flooding

- Focus on nature-based schemes and enhancing existing defences to improve protection to developed areas.
- Maximise opportunities for social, economic and environmental benefits when investing in flood risk management infrastructure.

Policy 9 – Resilient Ecological Networks and Green Infrastructure

- Action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature-based approaches to site planning and the design of the built environment.

Planning Policy Wales:

63. National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the determination of this matter.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places

3.12. Good design is about avoiding the creation of car-based developments. It contributes to minimising the need to travel and reliance on the car, whilst maximising opportunities for people to make sustainable and healthy travel choices for their daily journeys. Achieving these objectives requires the selection of sites which can be made easily accessible by sustainable modes as well as incorporating appropriate, safe and sustainable links (including active travel networks) within and between developments using legal agreements where appropriate.

3.39. For most rural areas the opportunities for reducing car use and increasing walking, cycling and use of public transport are more limited than in urban areas. In rural areas most new development should be located in settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole. Development in these areas should embrace the national sustainable placemaking outcomes and, where possible, offer good active travel connections to the centres of settlements to reduce the need to travel by car for local journeys.

- Promoting Healthier Places

4.1.1 The planning system should enable people to access jobs and services through shorter, more efficient and sustainable journeys, by walking, cycling and public transport. By influencing the location, scale, density, mix of uses and design of new development, the planning system can improve choice in transport and secure accessibility in a way which supports sustainable development, increases physical activity, improves health and helps to tackle the causes of climate change.

4.1.10 The planning system has a key role to play in reducing the need to travel, particularly by private car, and supporting sustainable transport, by facilitating developments which:

- are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car;
- are designed in a way which integrates them with existing land uses and neighbourhoods; and
- make it possible for all short journeys within and beyond the development to be easily made by walking and cycling

4.1.13 The sustainable transport hierarchy should be used to reduce the need to travel, prevent car-dependent developments in unsustainable locations, and support the delivery of schemes located, designed and supported by infrastructure which prioritises access and movement by active and sustainable transport.

4.1.30 Provision for active travel must be an essential component of development schemes and planning authorities must ensure new developments are designed and integrated with existing settlements and networks, in a way which makes active travel a practical, safe and attractive choice.

- Sustainable Management of Natural Resources
- Placemaking in Rural Areas
- Accessibility
- Previously Developed Land
- The Best and Most Versatile Agricultural Land
- Development in the Countryside (including new housing)
- Supporting Infrastructure
- Managing Settlement Form –Green Wedges

Chapter 4 - Active and Social Places

- Transport
- Living in a Place (housing, affordable housing and gypsies and travellers and rural enterprise dwellings)
- Activities in Places (retail and commercial development)
- Community Facilities
- Recreational Spaces

Chapter 5 - Productive and Enterprising Places

- Economic Infrastructure (electronic communications, transportation Infrastructure, economic development, tourism and the Rural Economy)
- Energy (reduce energy demand and use of energy efficiency, renewable and low carbon energy, energy minerals)
- Making Best Use of Material Resources and Promoting the Circular Economy (design choices to prevent waste, sustainable Waste Management Facilities and Minerals)

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)

Technical Advice Notes:

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

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

paragraph 3.1.2:-

'Planning authorities should support the diversification of the rural economy as a way to provide local employment opportunities, increase local economic prosperity and minimise the need to travel for employment. The development plan should facilitate diversification of the rural economy by accommodating the needs of both traditional rural industries and new enterprises, whilst minimising impacts on the local community and the environment. The expansion of ICT technology, in particular broadband, into rural areas could help to overcome the barriers associated with distance to market, and access to customers and business services. It could also support diversification into higher paid employment sectors. Planning authorities should support planning applications which are intended to enhance infrastructure networks in rural areas.'

In addition paragraph 3.1.3 highlights that planning authorities should promote the expansion of established businesses:

'This should include supporting the expansion of businesses that are currently located in the open countryside provided there are no unacceptable impacts on local amenity.'

- Technical Advice Note 11 – Noise (1997)

Paragraph 8. –

'Local planning authorities must ensure that noise generating development does not cause an unacceptable degree of disturbance. They should also bear in mind that if subsequent intensification or change of use results in greater intrusion, consideration should be given to the use of appropriate conditions.'

Paragraph 9. –

'Noise characteristics and levels can vary substantially according to their source and the type of activity involved. In the case of industrial development, for example, the character of the noise should be taken into account as well as its level. Sudden impulses, irregular noise or noise which contains a distinguishable continuous tone will require special consideration.'

Paragraph 13. –

'Care should be taken to keep the noisiest activities away from the boundary or to take measures to reduce the impact of noise. Authorities should also take into account the fact that the background noise level in some suburban and rural areas is very low, and the introduction of noise generating activities into such areas may be especially disruptive.'

- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 13 – Tourism (1997)
- Technical Advice Note 15 – Development and Flood Risk (2004)

- Technical Advice Note 23 – Economic Development (2014)
- Technical Advice Note 24 – The Historic Environment (2017)

Supplementary Planning Guidance:

65. In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The following SPG are of relevance:
- Biodiversity and Development
 - Economic Development, Employment Land and Premises (2023)
 - Conversion and Renovation of Rural Buildings
 - Minerals Safeguarding (2018)
 - Parking Standards (Interactive Parking Standards Zones Map)

Welsh National Marine Plan:

66. National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this authorisation. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals within the Marine Plan Area for Wales.

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”

Equality Act 2010

67. The Equality Act 2010 identifies a number of ‘protected characteristics’, namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council’s duty under the above Act has been given due consideration in the preparation of this report.

Well Being of Future Generations (Wales) Act 2015:

68. 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 the Enforcement Notices

69. National planning guidance advises that when deciding whether to take enforcement action, the principal issue for the Council should be whether the unauthorised development would have an unacceptable effect on public amenity and in all cases, the Council is required to consider the expediency of taking action. Enforcement action should not be pursued simply to regularise development which is otherwise acceptable in planning terms and is likely to be granted planning permission.
70. The main planning issues arising from this case are whether the development, involving both operational development and changes in the use of the buildings and land, constitute acceptable development in this rural location or would have any adverse impact on the surrounding landscape and neighbouring properties.
71. The main policies which have been identified as relevant in determining whether the development is acceptable include policy SP1 (Delivering the Strategy), MD1 (Location of New Development), MD2 (Design of New Development), MD7 (Environmental Protection), MD8 (Historic Environment) MD11 (Conversion and Renovation of Rural Buildings); MD13 (Tourism and Leisure), MD14 (New Employment Proposals), MD17 (Rural Enterprise) and MG17 (Special Landscape Areas).
72. Policy MD1 seeks to emphasise the importance of protecting the countryside from unacceptable and unjustified new development, and ensuring that it contributes positively to the rural economy and the viability and sustainability of rural communities. The policy allows for new development subject to criteria, including that the proposal has no unacceptable impact on the countryside and does not result in the loss of the best and most versatile agricultural land.
73. Planning Policy Wales states that planning authorities should adopt a positive approach to the conversion of rural buildings for business re-use (5.6.6). This is supported by LDP policy MD1 which specifies that new enterprises are promoted, where appropriate.
74. Policy MD14 (New Employment Proposals) states that on existing and allocated employment sites development proposals for B1, B2 and B8 employment uses, and complementary ancillary uses will be supported. Elsewhere proposals for new employment uses will be permitted where:
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.

75. Policy MD17 (Rural Enterprise), specifies that proposals for the development of small scale employment uses that promote rural enterprise will be permitted where the proposal involves the conversion of an existing rural building in accordance with policy MD11.

76. Policy MD11 (Conversion and Renovation of Rural Buildings) reflects the policy position set out in national policy, with preference being given to alternative business, community or tourism uses over residential use and is set out on the basis that proposals for the conversion or renovation of existing rural buildings for rural enterprise, tourism, community or residential use will be acceptable where:

1. Conversion of an existing rural building would not give rise to the need for a replacement building; and

2. Reuse can be achieved without substantial reconstruction, extension or alteration that unacceptably affects the appearance and rural character of the building or its setting;

The supporting text to this policy states that for both traditional and modern rural buildings, the Council will favour reuses which can make a positive contribution to the rural economy, such as rural enterprises, farm and craft shops, small scale commercial and light industrial enterprises, or tourism and recreation facilities.

77. The guidance set out within the Conversion and Renovation of Rural Buildings (2018) SPG states the following under Section 7, in respect of the appropriate re-use of rural buildings:

7.1. One of the benefits of allowing the conversion of rural buildings to alternative uses is to ensure the survival of traditional rural buildings which add to the character and charm of the rural Vale of Glamorgan. Therefore, in such cases, it is necessary to ensure that alternative uses require a minimum of changes to the fabric of the building and its setting in order to retain its character and visual amenity in the rural landscape.

7.2. The other main benefit is the opportunity it provides to boost the rural economy of the Vale of Glamorgan. National planning policy emphasises the important role that the re-use of rural buildings has in meeting the needs of rural areas for commercial and industrial development, tourism, sport and recreation uses. Such uses include workshops, offices, farm shops, community halls, and holiday accommodation which can provide direct and indirect employment opportunities in the rural Vale and can have considerable benefit to the local economy and community.

7.3. Both benefits above support the policy preference in favour of uses other than residential use, which in itself has limited benefit to the rural economy, and can have more significant harmful effects in terms of alterations to existing rural buildings and their setting.

7.4. Where alternative uses are being promoted within an existing rural enterprise as part of a diversification scheme, the applicant will need to demonstrate that the proposal would not conflict with the existing enterprise, and remain ancillary to the main operations of the existing business. Accordingly, depending on the nature of the proposal it may be necessary to limit the scale of the proposed activity, via planning conditions or obligations.

78. For clarification, TAN6 defines a rural enterprise as follows:

4.3.2 For the purpose of this technical advice note qualifying rural enterprises comprise land related businesses including agriculture, forestry and other activities that obtain their primary inputs from the site, such as the processing of agricultural, forestry and mineral products together with land management activities and support services (including agricultural contracting), tourism and leisure enterprises.

The supporting text of policy MD11 states that the Council will favour re-use of both modern and traditional rural buildings, where the use will make a positive contribution to the rural economy. The supporting text of MD17 states that the Council recognises the need to promote rural enterprise and diversification in the rural Vale and maximise opportunities for small scale, sustainable employment outside of larger settlements.

79. Policy MD2 (Design of New Development) requires development proposals to safeguard existing public and residential amenity.

80. Policy MD7 (Environmental Protection) requires proposals to demonstrate that they will not result in an unacceptable impact on people, residential amenity, property and the natural environment in respect of a number of different impacts including noise, vibration, odour nuisance, light pollution and flood risk.

81. Policy MD8 (Historic Environment) requires that within designated landscapes, proposals must respect the special historic character and quality of these areas.

82. Policy MG17 (Special Landscape Areas) requires that development proposals demonstrate that they would cause no unacceptable harm to the important landscape character of the area.

Use of Former Equestrian Buildings for Business Uses

83. As identified above, the current breach of planning control includes the buildings forming part of the recently refused application 2022/012220/FUL comprising mainly B1 (office / light industrial) and B8 storage uses with the café and furniture warehouse, together with a number of other uses including the children's play area and bakery. Whilst it is not disputed that these uses may provide small scale employment opportunities it is a requirement of policy MD17 is that the small scale employment uses 'promote rural enterprise'.

84. The previous application for the conversion of a limited number of former agricultural buildings (2019/01154/FUL) was justified in terms of policy MD1 and MD14, as the proposed uses were considered “small scale rural employment, as well as services for the rural community, in animal related businesses”. However, none of the existing uses, with the exception of the arboriculture / tree services business, have any connection with the existing horse racing rural enterprise and are typically the type of uses that might be found on an industrial estate.
85. Whilst the landowner’s agent has recently confirmed, following the refusal of application 2022/012220/FUL, that a revised planning application is intended to be submitted in an attempt to address the reasons for refusal, concerns remain regarding the number of units which are proposed to be re-used. In particular, it is not considered that the revision proposed would be ‘small scale’ or ‘remain ancillary’ to the main operations of the existing business as required in Policy MD17 or guidance in the SPG and for that reason, there are concerns with the acceptability of any future submission. Given the length of time the existing uses have been operating at the site in breach of planning control, it is considered expedient that an enforcement notice is issued to require the existing unauthorised use of the buildings to cease.

Use of Holiday Log Cabins for General Rental Purposes

86. At the time they were approved in 2019, it was considered that the six holiday cabins proposed would diversify the activity of an established rural enterprise, that being, the horse training enterprise. There was also considered to be a clear connection between the holiday cabin business and the established equestrian business and the proposal was therefore considered to comply with LDP policies, particularly MD1 and MD13, as it comprised a rural diversification scheme.
87. At the start of the Council’s investigation, it was identified that none of the cabins were being used for holiday accommodation as required by condition 3. on the original consent (2019/00783/FUL) as all of them were being let out on short and long-term lets, rather than being used as holiday accommodation. This is considered to be contrary to policies SP1, MD1, MD13, and MD17 as the use of the cabins would essentially be no different to a residential dwelling in the countryside, being rented out to anyone requiring accommodation. Whilst the letting agent has recently confirmed that changes are to be made to the booking platforms to make customer aware that the cabins are not to be used for business purposes, it is considered unlikely that this will prevent further breaches from occurring.
88. Furthermore, the landowner has confirmed that one of the cabins has a long-term tenant in occupation. If this tenant continued to reside at the property on a permanent basis, then over time, the permanent use of the cabin as a dwelling would be immune from enforcement action. It is therefore considered expedient that an enforcement notice is issued to require compliance with condition 3. of 2019/00783/FUL.

Motor Cross Activities

89. It is clear from the history of complaints received relating to this activity that despite the proximity of the land to the A48, the frequency of its use is causing a noise disturbance and nuisance to local residents. The information provided by the landowner has suggested that the land has only had a limited use and within the 14 days permitted for temporary uses, however the number of days suggested by the complainants is a lot higher and in excess of 14 days.
90. Notwithstanding this difference, the construction on the land of soil ramps which are not removed in between events, has resulted in the number of days exceeding 14 in any calendar year and therefore planning permission is required for the change of use of the land. Whilst the motor cross activity appears to be restricted to the landowner's son and his friends, the landowner has provided evidence to suggest that the land has already been used on one occasion by a third party without his permission and there is currently no restriction in place that would prevent the land being used on a commercial basis.
91. For such uses to be considered acceptable, it would generally be expected for the likely noise generated by the activity to be assessed and for it to be demonstrated, through a suitable noise assessment, that the resulting noise will not cause an impact on local residential properties. In the absence of such an assessment through the submission of an appropriate planning application, it cannot be demonstrated that the proposal would not cause an unacceptable impact on the amenity of local residents and the current activities are clearly having that effect, which is considered to be contrary to LDP policies MD7 and TAN 11: Noise. It is therefore considered that it would be expedient to take enforcement action to require the use of the land for motor cross activities to cease and the removal of the soil ramps.

Commercial Building (in place of Agricultural 'Sheep' Building)

92. Whilst the building that has been constructed adjacent to the lower yard is in the same area of the site as the agricultural building that was approved under planning application 2022/00502/FUL, its size, design, method of construction and external materials are not in accordance with that consent. Furthermore, whilst the approved building was proposed to be used to accommodate sheep and was conditioned for that purpose, the existing building has only been used for commercial storage and general industrial purposes.
93. Whilst the landowner has advised that he would regularise the position by submitting a planning application, it is considered that the current building and surrounding car park would be assessed as a new unauthorised development in the countryside, which is readily visible from the open countryside, including Stalling Down. The previous planning consent was granted on the basis that it was required for agricultural purposes and no justification has been provided for the construction of a new commercial building in the countryside. Due to the method of construction of the existing building with cavity walls and dry lining, it is considered unlikely that it would now be suitable for agricultural purposes, other than storage and there are already a number of other

buildings in the yard which could be used for that purpose. Furthermore, the building is surrounded by a large area of tarmac which is used as a car park and not approved in connection with the agricultural building.

94. It is therefore likely that such a proposal would be considered contrary to LDP policies SP1, S10, MG17, MD1, MD2 and MD7 and it would comprise an unjustified development which has an adverse impact on the rural character of the area and Special Landscape Area. It is therefore considered that it would be expedient to take enforcement action to require the demolition and removal of the building and surrounding tarmac hardstanding / car park.

Excavation of Land adjacent to Equine Hospital

95. The additional area that has been excavated to the rear of the stable complex clearly falls outside the recent planning consent that was granted for the retention of stable block and yard and change of use of stables to a mixed use of stables and equine veterinary hospital approved under application 2022/00808/FUL.
96. Having considered the location of this area of land which sits behind the existing stable complex, it is not however considered that the additional area that has been excavated would cause an unacceptable harm to the rural character of the area or Special Landscape Area. This is particularly so as it sits alongside other areas where consent has recently been granted for development which requires the land to be excavated (2022/01305/FUL - equine rehabilitation building and 2021/00588/FUL - assistant trainers dwelling).
97. It is considered likely that no planning objections would have been raised, had the additional excavated area been included as part of the application for the equine veterinary hospital application (2022/00808/FUL) and it would not therefore be expedient to require this land to be infilled. The current unfinished appearance of the excavated area is however unattractive and it is therefore considered that further re-profiling works would need to be carried out in order make the development acceptable. It is therefore considered expedient to issue an enforcement notice to require minimal re-profiling of the excavated area and landscaping to be undertaken.

Development Where Enforcement Action Is Not Expedient

Land Filling Adjacent to A48

98. It would appear from the plans that were approved as part of the new access application (2022/00720/FUL) and photographs taken of the area that additional material has been brought onto this area of the site which constitutes an engineering operation and should have been included as part of the planning application. At the time the new access application was implemented, the importation of materials to the site was regulated by NRW, however the Council's Shared Regulatory Service also reviewed the information that was submitted by the contractor and was satisfied that there were no significant contaminant concerns identified in relation to the materials

proposed for import.

99. There has been no recent evidence to suggest that any further materials are being imported into this area of the site and a recent site visit has confirmed that the land has been landscaped and sown with grass seed. The land is sited to the west of the new access and is screened from the A48 by the hedgerow running along the south of the site. Whilst the land is readily visible from the north, including land within the Special Landscape Area (SLA) and Stalling Down, it is not considered that the re-profiling with additional material causes an unacceptable harm to the character of the area or SLA, or that it would be expedient to take enforcement action.

Ground Works for Proposed Event Parking Area

100. As the recent planning application seeking the formation of an event parking area has been refused and this was partly retrospective (2022/01084/FUL), consideration has been given to whether any of the works that have been undertaken to date are unacceptable.
101. The information submitted as part of the application suggests that surplus sub-soil from previous developments undertaken within the site had been used to level up a site adjoining the menage and lower yard stables and these works have clearly occurred. Whilst the scale of the works undertaken would constitute an engineering operation, the appearance of the site is not considered to cause an unacceptable harm to the character of the area or SLA that it would be expedient to take enforcement action at the present time. This position will however be monitored and should any further unauthorised works be undertaken on the land, the position will be reviewed.

Conclusions

102. As identified earlier in this report, the decisive issue for the Council in considering whether to take enforcement action should be whether the unauthorised development would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.
103. As a result of the investigations undertaken in relation to a number of breaches of planning control at the site, it has been concluded that a number of the breaches that have occurred conflict with LDP policies which are aimed at protecting the countryside from unacceptable development. Although previous applications have been approved by the Council for development which is considered to relate to the existing rural enterprise, including the use of former equestrian buildings, the wooden cabins for holiday accommodation and a new agricultural building, none of the new uses introduced onto the site have any connection with the existing horse racing rural enterprise or support the principles of sustainable development and are considered unacceptable uses in this rural location. It is therefore considered that these uses conflict with policies contained within the LDP including SP1 (Delivering the Strategy), MD1 (Location of New Development), MD2 (Design of New Development), MD7 (Environmental Protection), MD8 (Historic Environment) MD11 (Conversion and Renovation of Rural Buildings); MD13 (Tourism and Leisure),

MD14 (New Employment Proposals), MD17 (Rural Enterprise) and MG17 (Special Landscape Areas), the Council's SPG relating to the Conversion and Renovation of Rural Buildings and Planning Policy Wales.

104. The other unauthorised use involving the motor cross activity, although not currently operating as a commercial business, is continuing to have an adverse impact on the rural character of the area and local residents as a result of noise and disturbance. This use of the land is therefore considered to conflict with policies MD1, MD7, Planning Policy Wales and TAN 11: Noise.
105. The unauthorised engineering operations which have been carried out in three different locations across the site have all been assessed as acceptable at the present time, however the area to the north of the upper stable complex will need to be reprofiled and landscaped to be visually acceptable.
106. It is considered that the decision would comply 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.

Resource Implications (Financial and Employment)

107. 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)

108. 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).
109. Notwithstanding this, the planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process for the Council to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development ought to be allowed.
110. In view of the conclusions reached in respect of the sustainability of this development, the rural character of the area and residential amenity, the actions proposed are considered to be in the public's interest and outweigh any rights the individual has under the 1998 Act.

Equal Opportunities Implications (to include Welsh Language Issues)

111. None.

RECOMMENDATION

- (1) That the Head of Legal Services be authorised to issue the following Enforcement Notices under Section 172 of the Town and Country Planning Act 1990 (as amended):

Use of Former Equestrian Buildings for Business Uses

- (i) Permanently cease the use of the buildings for unauthorised uses.
(Note: the Enforcement Notice to specify the full range of unauthorised uses)
- (ii) Remove the first floor windows serving the first floor uses and cover with timber cladding.
- (iii) Permanently remove from the buildings and land any fixtures and fittings, furniture, machinery and any other equipment or materials used in association with any of the unauthorised uses.

Use of Holiday Log Cabins for General Rental Purposes

- (i) Secure compliance with condition 3. of planning application reference 2019/00783/FUL by ensuring that the holiday log cabins are not occupied other than as holiday accommodation and are not occupied as a person's sole or main place of residence.
- (ii) Permanently remove from the holiday log cabins any fixtures and fittings, furniture, equipment and domestic items that are not associated with their use as holiday accommodation.

Motor Cross Activities

- (i) Permanently cease the use of the land for any motor cross events or any activity involving motorcycles, including practising.
- (ii) Permanently remove the soil ramps / jumps from the land.

Commercial Building (in place of Agricultural 'Sheep' Building)

- (i) Demolish the building.
- (ii) Break up and remove the tarmac hardstanding / car park.
- (iii) Permanently remove from the land all materials resulting from the taking of steps (i) and (ii) above.

Excavation of Land adjacent to Equine Hospital

- (i) Permanently cease any further excavation of the land.
- (ii) Carry out minimal works to the embankments to provide a natural profile.
- (iii) Landscape the embankments using only native plant species.

- (2) In the event of non-compliance with the Notices, authorisation is also sought to take such legal proceedings as may be required.

Reason for Recommendation

- (1) It appears to the Council that the above breaches of planning control constituting operational development, including the construction of a commercial building and excavation works have occurred within the last 4 years. It appears that the unauthorised use of the former equestrian and other buildings, occupation of the holiday cabins other than for holiday accommodation and motor cross activities has occurred within the last 10 years.
- (2) As a result of the investigations undertaken, it has been concluded that a number of the breaches that have occurred conflict with LDP policies which are aimed at protecting the countryside from unacceptable development. Although previous applications have been approved by the Council for development which is considered to relate to the existing rural enterprise, including the use of former equestrian buildings, the wooden cabins for holiday accommodation and a new agricultural building, none of the new uses introduced onto the site have any connection with the existing horse racing rural enterprise or support the principles of sustainable development and are considered unacceptable uses in this rural location. It is therefore considered that these uses conflict with policies contained within the LDP including: SP1 (Delivering the Strategy), MD1 (Location of New Development), MD2 (Design of New Development), MD7 (Environmental Protection), MD8 (Historic Environment) MD11 (Conversion and Renovation of Rural Buildings); MD13 (Tourism and Leisure), MD14 (New Employment Proposals), MD17 (Rural Enterprise) and MG17 (Special Landscape Areas), the Council's SPG relating to the Conversion and Renovation of Rural Buildings and Planning Policy Wales.
- (3) The other unauthorised use involving the motor cross activity, although not currently operating as a commercial business, is continuing to have an adverse impact on the rural character of the area and local residents as a result of noise and disturbance. This use of the land is therefore considered to conflict with policies MD1, MD7, Planning Policy Wales and TAN 11: Noise.
- (4) 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.

Background Papers

Enforcement File Ref: ENF/2023/0081/PRO

Contact Officer - Sarah Feist, Tel: 01446 704690

Officers Consulted:

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

IAN ROBINSON
HEAD OF SUSTAINABLE DEVELOPMENT

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **30 NOVEMBER, 2023**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

5. ENFORCEMENT ACTION

b) LAND AND BUILDINGS AT HILTON FARM, COLWINSTON

EXECUTIVE SUMMARY

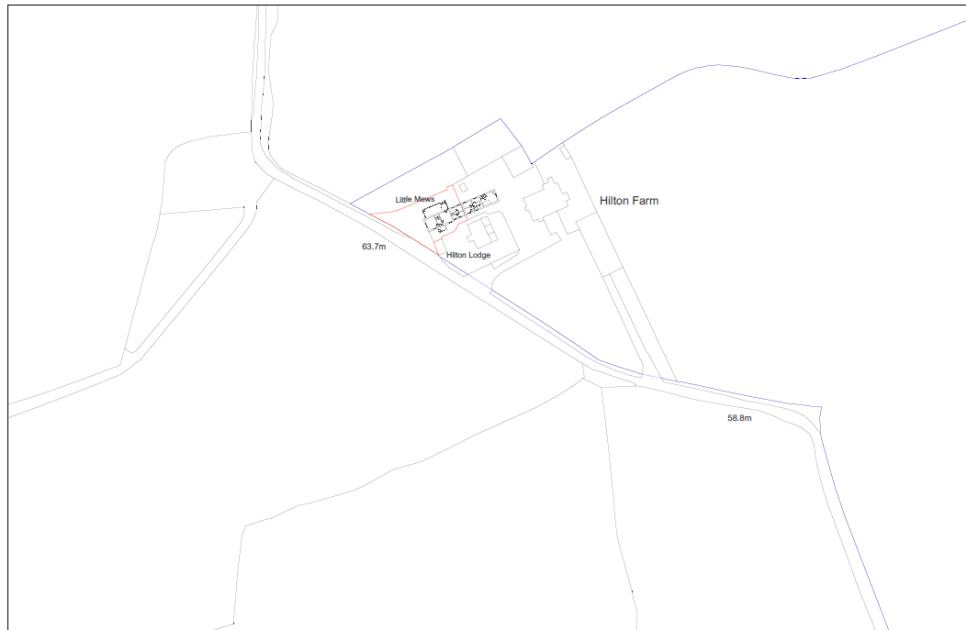
This report seeks authorisation to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 (as amended) in respect of unauthorised extensions of Big Mews Barn, comprising of a white UPVC conservatory added to the northwest side, as well as a white smooth rendered porch on the northeast side of the barn. By virtue of their domestic appearance, and scale in the case of the conservatory, the extensions are considered to domesticate the appearance and detract from the traditional agricultural character of the converted barn. As such, it is considered expedient to pursue enforcement action in relation to the conservatory and porch extension, to require them to be removed and for the side elevations of the barn to be repaired in stone.

This report also seeks authorisation to issue an Enforcement Notice in relation to the unauthorised use of Big Mews Barn, for residential lets. While tourist accommodation has previously been considered acceptable (app ref: 2006/01474/FUL), the use of the barn for residential use is not considered justified given the unsustainable rural location and that no evidence suggests the barn has been marketed for any other commercial purposes. It is therefore considered expedient to serve an enforcement notice for those reasons. Authorisation is also sought to pursue legal proceedings in the event that the Enforcement Notice is not complied with.

Background

1. This report relates to Big Mews Barn, Hilton Farm. The site is located just under approximately 1 mile from the settlement of Colwinston and is equally distanced from the village of Llysworney. The site is accessed via the country lane that connects the two villages and is located on the edge of the Upper and Lower Thaw Valley Special Landscape Area (SLA), as identified by the Vale of Glamorgan Adopted Local Development Plan (LDP). The site is also within a mineral safeguarding area for limestone category 2. A site location plan is included below.
2. A proactive enforcement case was opened by the Local Planning Authority (LPA) on 6th March 2023, to check compliance with planning application reference 2006/01474/FUL, which granted approval for the conversion of the barn into tourist accommodation, subject to conditions. The case was opened following a request from the owner for the LPA to confirm the implementation and compliance with 2006/01474/FUL.

Site Location Plan



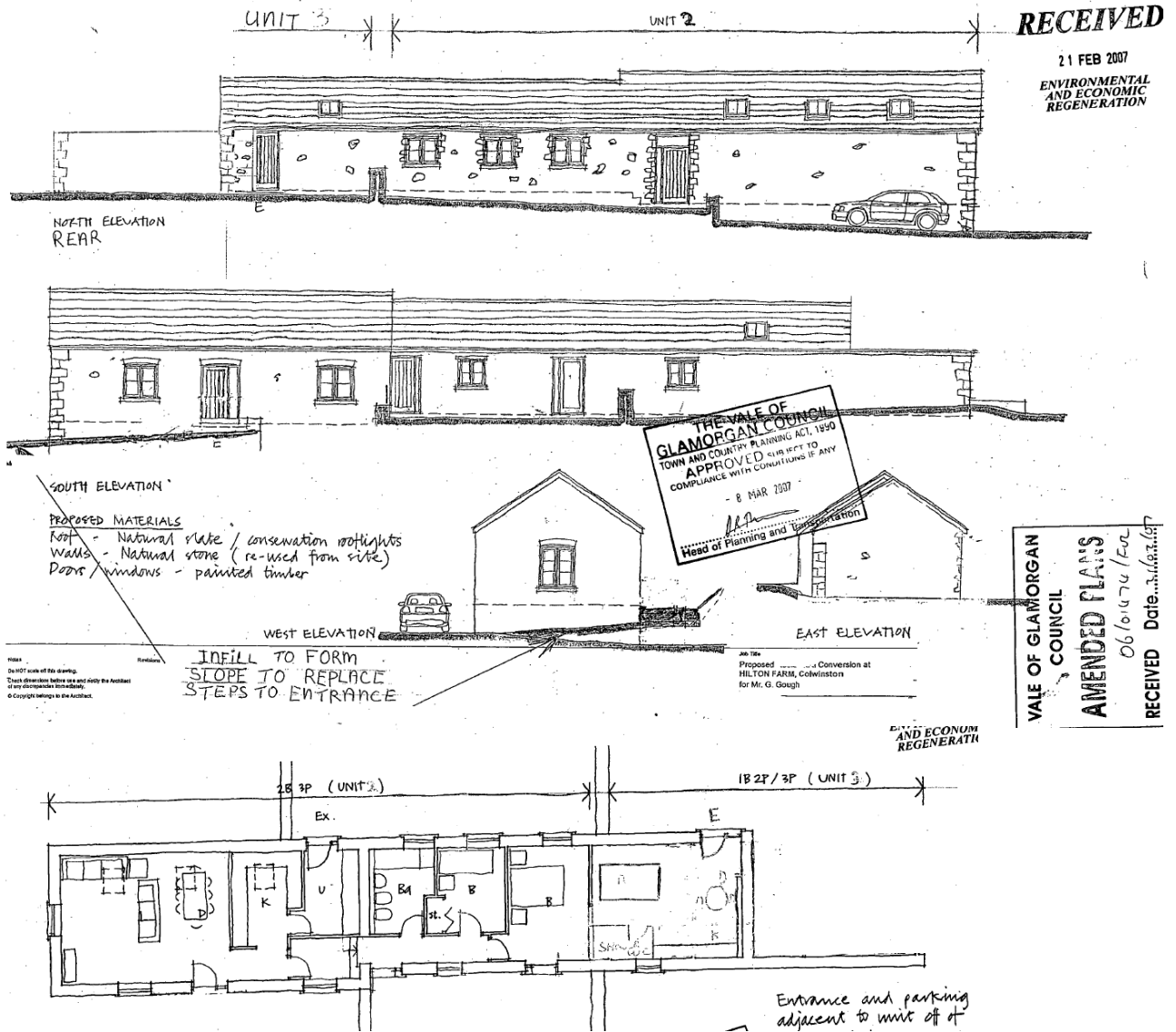
Details of the Breach

3. Following an initial site inspection, it was noted that there were significant differences between the barn as converted, compared to what was approved by the 2006 application (ref: 2006/01474/FUL). The approved conversion only included a ground floor, whereas a first floor has now been added above the western section of the barn, which is internally lit by roof lights. It also appears that the roof has been raised to accommodate the first floor, which has resulted in alterations to the barn's fenestration, with the insertion of a first floor opening in the west facing gable end, and changes to the windows in either side elevation. The most notable changes include the addition of a large white UPVC conservatory extension, as well as a white smooth rendered porch extension.
4. The conservatory has a footprint of approximately 10.9m by 3.9m. It has a hipped roof with an eaves of around 2.3m and a ridge of approximately 3m. The taller flat roof section has a maximum height of approximately 3.6m. The porch is approximately 3.8m by 2.1m, with an eaves of around 2.9m above the ground, sloping up to a maximum height of approximately 3.3m. Photographs of the converted barn are included below, as well as the approved elevations from the 2006 application.





Approved Plans from 2006/01474/FUL



5. Considering the volume of variations between the barns as converted and the approved plans, it is not considered that the proposal approved by 2006/01474/FUL has been carried through. As such, the barn as currently converted does not benefit from planning permission.
6. A retrospective planning application was received on 2nd June 2023, to regularise the conversion of Big Mews Barn into holiday accommodation, as built. However, application ref: 2023/00589/FUL was subsequently refused on 16th October 2023.
7. Aside from the operational development, the barn is split into two halves. Whilst Big Mews is supposedly still a holiday let, Little Mews is currently occupied as a permanent dwelling. Despite however being advertised as a holiday let, Big Mews is also targeted at large groups of contractors working in the area, and is therefore also used for residential stays, as opposed to tourist accommodation.
8. In terms of Little Mews, an application for a certificate of lawful development was received on 22nd August 2023 (app ref: 2023/00883/LAW). This was subsequently approved on 31st October 2023 for the following reason:

“The evidence submitted in support of the application is sufficient to demonstrate that, on the balance of probability, Little Mews, Hilton Farm has been in use as a dwelling for a period exceeding four years. As such, the development is lawful as defined under section 191 of the Town and Country Planning Act 1990 (as amended) and a lawful development certificate should be issued.”

Action Pursued to Date

9. Following the opening of the enforcement case, the site was visited on 9th March 2023. The occupant, Mr. George Gough (father of the owner), of Little Mews Barn granted access to both barns. It was apparent on site that Little Mews was a permanent residential dwelling, whilst Big Mews was configured to be let out to large groups, with bedrooms more akin to dormitories than holiday accommodation. The occupant of Little Mews Barn confirmed that they often house workers visiting the area. As such, Big Mews can be occupied by one group for an extended period. This is confirmed by the fact Big Mews is advertised online as “an ideal base for business related contractors in the local and surrounding area”.
10. The occupant of Little Mews was subsequently emailed on 9th March 2023 and asked to supply additional evidence, including the maximum number of nights that have been allowed under one booking. The son of the occupant responded on 13th March 2023 with links proving that Big Mews is advertised as a holiday let online. They also stated that the request to confirm compliance with 2006/01474/FUL (in that the unit is being used as a holiday let) was a result of an ongoing dispute over council tax banding. They queried whether, to avoid any confusion, they should apply for planning permission for Big Mews to be used as a dwelling. An email response was sent on 13th March 2023, highlighting that the LPA would not support a planning application for a new permanent residential dwelling, given the isolated and rural location. The

owner's son was invited to submit evidence, including a full register of bookings of the holiday lets, as well as confirmation of how long the Little Mews Barn had been occupied as a permanent dwelling. The owner's son confirmed on 27th March 2023 that they had appointed a planning consultant to review and respond to the issues raised.

11. Notwithstanding the appointment of a planning consultant, the owner's son was reminded in a reply to the email dated 27th March 2023, that they should still provide a schedule of bookings related to each of the holiday lets on site covering the last 12 months.
12. Following the appointment of an Agent, planning application ref: 2023/00589/FUL was received to regularise the conversion of Big Mews as built, as well as its continued use to provide short term tourist accommodation. However, this application was subsequently refused on 16th October 2023.
13. While a certificate of lawful lawfulness has been granted in respect of Little Mews, no further action has been taken in respect of Big Mews Barn following the refusal of the above-mentioned application. It is therefore necessary to consider the expediency of serving an enforcement notice.

Planning History

14. The site benefits from the following planning history:

1982/00523/FUL, Address: Disused barn, Hilton Farm, Colwinston, Proposal: Conversion to domestic dwelling, Decision: Refused

1984/00259/FUL, Address: Hilton Farm, (disused barn), Colwinston, Proposal: Conversion to domestic dwelling to be occupied by member of applicant's family, Decision: Refused

1989/00990/FUL, Address: Hilton Farm, Colwinston, Nr Cowbridge, Proposal: Change of use of 2 redundant buildings to holiday chalets, Decision: Approved

1993/00188/FUL, Address: Hilton House, Colwinston, Proposal: Refurbishment of existing barn buildings and conversion to two houses, Decision: Refused

1993/00629/FUL, Address: Hilton House, Colwinston, Proposal: Refurbishment of existing barn to dwelling, Decision: Withdrawn

1993/01063/FUL, Address: Hilton House, Colwinston, Proposal: Refurbishment of existing farm barns to provide holiday accommodation, Decision: Withdrawn

1998/00945/FUL, Address: Hilton Farm, Colwinston, Proposal: Removal of condition no. 5 from consent no. 89/00990/FUL - 'The development hereby approved shall be used as holiday accommodation only and for no other purpose whatsoever', Decision: Refused

2002/01121/FUL, Address: Hilton Farm, Colwinston, Proposal: Conversion of barn to dwelling, Decision: Withdrawn

2005/00968/FUL, Address: Hilton Farm, Colwinston, Proposal: Barn conversion to dwelling, Decision: Refused

2006/01474/FUL, Address: Hilton Farm, Colwinston, Proposal: Conversion of barn building to tourist accommodation, Decision: Approved

2007/00911/FUL, Address: Hilton Farm, Colwinston, Proposal: Conversion of barn to holiday lets, Decision: Withdrawn

2023/00589/FUL, Address: Hilton Farm, Colwinston, Proposal: Retain the use of the redundant building for holiday accommodation and retain a front porch and rear extension, Decision: Refused.

Reason for Refusal:

The extent of the works carried out to the barn, amount to the substantial alteration and extension of the former agricultural building. By reason of the design and character of the alterations and extensions, relative to its former agricultural appearance, the works have unacceptably harmed and fundamentally altered the character of the building. The barn which would have retained much of its agrarian character had it have been converted in accordance with the scheme approved under application reference 2006/01474/FUL, now has a highly domestic and urbanised character, which also fails to respond to the rural and agricultural context of the site. This is contrary to Policies MD11 (Conversion and Renovation of Rural Buildings), MD13 (Tourism and Leisure), and MG17 (Special Landscape Areas) of the Vale of Glamorgan Adopted Local Development Plan 2011- 2026, in addition to the Conversion and Renovation of Rural Buildings Supplementary Planning Guidance (2018), and advice contained within Technical Advice Note 12 (Design).

2023/00883/LAW Address: Hilton Farm, Colwinston, Proposal: Continued use of former agricultural building as a dwelling, Decision: Approved.

Policy

Local Development Plan:

15. 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 SP4 – AFFORDABLE HOUSING PROVISION

POLICY SP9 – MINERALS

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 MD7 - ENVIRONMENTAL PROTECTION

POLICY MD9 - PROMOTING BIODIVERSITY

POLICY MD11 - CONVERSION AND RENOVATION OF RURAL BUILDINGS

Future Wales: The National Plan 2040:

16. Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process. The following chapters and policies are of relevance in the assessment of this planning application:

Policy 5 – Supporting the Rural Economy

- Supports sustainable, appropriate, and proportionate economic growth in rural towns.
- Supports development of innovative and emerging technology businesses and sectors to help rural areas unlock their full potential, broadening the economic base and creating higher paid jobs.

Planning Policy Wales:

17. National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the matters considered in this report.
18. The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.
19. The following chapters and sections are of particular relevance in the assessment of this planning application:
20. Chapter 2 - People and Places: Achieving Well-being Through Placemaking,
- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)
21. Chapter 3 - Strategic and Spatial Choices
- Good Design Making Better Places

22. Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
 - Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)
- National planning guidance in the form of Planning Policy Wales (Edition 10, 2018) (PPW) is of relevance to the determination of this application.

Technical Advice Notes:

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

- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 24 – The Historic Environment (2017)

Supplementary Planning Guidance:

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

- Affordable Housing
- Biodiversity and Development
- Conversion and Renovation of Rural Buildings

7.1 *“One of the benefits of allowing the conversion of rural buildings to alternative uses is to ensure the survival of traditional rural buildings which add to the character and charm of the rural Vale of Glamorgan. Therefore, in such cases, it is necessary to ensure that alternative uses require a minimum of changes to the fabric of the building and its setting in order to retain its character and visual amenity in the rural landscape.”*

Alterations / Extensions

9.3.1 *“If a building merits conversion then it must be of a scale which is capable of conversion to a new use in its own right. Accordingly, proposals that rely on substantial new-build elements in order to make them work will not be permitted.”*

9.3.2 *“Where justified, minor additions may be acceptable where this is designed with sensitivity for the existing building and does not conflict with other planning requirements. Extensions should enhance the character and appearance of the building and, where possible, should make a positive contribution to the wider environs. Favourable consideration will be given to*

glazed lightweight extensions which retain the distinction between ‘old’ and ‘new’.”

9.3.3 *“Consideration may also be given to proposals for extensions where reconstruction of a previously demolished element would beneficially reinstate the completeness of a group of buildings. In such cases it will be important to establish beyond doubt the nature and particularly the size of any demolished element, therefore photographic, cartographic or other evidence should be provided to support such proposals.”*

9.3.4 *“In all cases, where an extension is deemed acceptable it should be subordinate in scale to the existing building and respectful in its design detailing to the parent building.”*

10 Design in the Landscape

11 Minerals Safeguarding (2018)

Other relevant evidence or policy guidance:

- 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:

25. 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

26. The conservatory and porch extensions to the barn were recently refused planning permission under application ref: 2023/00589/FUL, along with alterations to Big Mews Barn, which also include the raising of the ridge of the building, changes to its fenestration, and the insertion of a first floor lit by rooflights. Application 2023/00589/FUL did not cover the alterations made to Little Mews Barn (the eastern part of the building), which has also not been converted in accordance with the details approved originally by application ref: 2006/01474/FUL. These alterations mainly relate to changes in the fenestration of the barn. However, apart from the addition of the conservatory and porch extensions that were added between May 2020 and July 2021, the rest of the alterations and extensions to the barn, including the raising of the ridge, were undertaken more than 4 years ago and are therefore now immune from enforcement action.

27. Therefore, the principal issue to consider when identifying whether it is expedient or not to serve a planning enforcement notice in this case include the visual impact of the conservatory and porch extensions upon the character of the barn and whether they respond appropriately to the context and character of the site and rural setting. The issue of whether Big Mews Barn should be used for residential purposes is also fundamental in considering whether it is expedient to issue an enforcement notice.

Visual Impact

28. Criterion 2 of Policy MD11 (Conversion and Renovation of Rural Buildings) states that the conversion and renovation of traditional rural buildings will be permitted where “reuse can be achieved without substantial reconstruction, extension or alteration that unacceptably affects the appearance and rural character of the building or its setting”. This is supported by part 9.3.1 of the Council’s Supplementary Planning Guidance (SPG) on the Conservation and Renovation of Rural Buildings, which notes that *“proposals that rely on substantial new-build elements in order to make them work will not be permitted.”* This is further highlighted in paragraph 9.3.2, given that *“where an extension is deemed acceptable it should be subordinate in scale to the existing building and respectful in its design detailing to the parent building”*.
29. This guidance is commensurate to the thrust of Technical Advice Note 12 (Design) which states under part 5.8.4 that *“in relation to conversion or adaptation of agricultural buildings, character retention will often involve the least amount of change possible to external appearance.”*
30. It is worth noting that the original conversion of the barn approved under 2006/01474/FUL sought to retain the agricultural appearance of the building, being carefully designed to reflect its original use as a robust, simply constructed single storey barn. It did not include any substantial extensions and therefore the design was considered to respond more appropriately to the character of the barn. In contrast, the large conservatory extension to the northwest side of the barn occupies a substantial footprint of approximately 10.9m by 3.9m, reaching a height of between 3 – 3.6m. Moreover, the conservatory is constructed in white UPVC and is therefore domestic in appearance beside the stone barn. The barn is highly visible from the lane as well as surrounding land and as such, the conservatory extension is considered to detract from the agrarian character of the barn, which in turn fails to respond to the rural context of the site and surroundings.
31. In addition to the conservatory, the white rendered porch extension to the southeast side of the barn measures approximately 3.8m by 2.1m, with an eaves of 2.9m, sloping up to maximum height of around 3.3m. While smaller than the conservatory, the white rendered finish, and the insertion of white UPVC doors, windows, guttering, and downpipes means the lean-to extension is not considered lightweight and appears as a domestic porch that would be added to a dwelling, rather than a sympathetic addition to this rural barn conversion. This view was shared by the Council’s Conservation Officer, given the objection submitted in respect of application ref: 2023/00589/FUL, to both the conservatory and porch extensions, on the basis that they domesticate the appearance of the barn. The Conservation Officer highlighted: -

“The overly large and ornate Upvc conservatory, with a raised partial clerestory, however, has a highly domestic appearance at odds with the simple design and traditional materials of the original barn. Similarly, the porch has a bland domestic appearance. It has been smooth rendered, which contrasts strongly with the stonework of the original barn. Both additions, because of their design and materials, and in the case of the conservatory, its scale, detract from the appearance of the original barn.”

32. It is acknowledged that even with the removal of the conservatory and porch extensions, the remaining alterations that were undertaken more than 4 years ago and are now lawful are also not sensitive to the traditional design and character of the barn, as outlined in the reason to refuse 2023/00589/FUL. However, given that the extensions in this case have resulted in the most significant loss of character, the removal of them would be considered betterment to the current scenario. Consequently, based on the fact that the conservatory and porch extensions to Big Mews Barn have an unacceptable visual impact by failing to accord with Policy MD11 of the Adopted LDP, as well as the Council's Conversion and Renovation of Rural Buildings SPG, and advice contained within TAN 12, it is considered expedient to serve an enforcement notice.

Residential Use

33. Criterion 1 of Policy MD1 (Location of New Development) of the Vale of Glamorgan Adopted LDP 2011-2026 relates to the location of new development, and states that *“new development on unallocated sites should have no unacceptable impact on the countryside.”* This policy seeks to emphasise the importance of protecting the countryside from unacceptable and unjustified new development.
34. Criteria 3 and 4 of Policy MD11 of the Adopted LDP states that proposals for conversions to residential use will only be permitted whereby *“the building has been appropriately marketed for other alternative uses such as farm diversification, business, community, tourism, or recreational uses and it has been demonstrated that such alternative uses are not viable; and the location of the building is sustainable in terms of access to local services, public transport and community facilities”*.
35. The 2006 application proposed the use of the barns for holiday accommodation and the consent was conditioned accordingly to restrict the use of the barns for no other purpose. All permitted development rights were also removed by condition. However, given that this consent has not been carried through, all conditions associated with application ref: 2006/01474/FUL cease to have effect. In terms of the current use of the barn, it has been subdivided into a permanent residential dwelling comprising of Little Mews, with the Big Mews being used to accommodate large group bookings, as per the advert targeting those working in the area. A certificate of lawful use (app ref: 2023/00883/LAW) has recently been granted in respect of the Little Mews. However, this does not relate to the Big Mews.

36. The residential use of Big Mews to accommodate group bookings of contractors working in the area for extended periods is not considered to provide short term 'holiday accommodation'. Furthermore, no evidence has been provided to confirm that the Big Mews has been marketed for any alternative commercial uses, contrary to criterion 3 of Policy MD11. It is also considered that given the rural location, just under 1 mile away from the nearest Village via a single-track unlit country lane, that those occupying the barns would be highly reliant on the use of private cars to access work as well as local services and amenities. The rural location also contributes to the dispersed pattern of dwellings in the countryside, which in turn places additional pressure on the Council to provide essential services and facilities in isolated locations. Therefore, given the lack of justification and that the residential use of Big Mews Barn does not support a rural enterprise, it is considered that the location is entirely unsustainable in this case, contrary to Policies MD1 and MD11 of the LDP. Consequently, the residential use if the barn is deemed unacceptable.

Affordable Housing

37. For developments where there is a net gain of one or more dwellings in the rural Vale, Policy MG4 of the LDP requires an affordable housing contribution of 40%. This case relates to the net gain of one dwelling, comprising of Big Mews Barn, in the Llandow ward, where the following affordable housing need has been identified.

LLANDOW	
1 bed	8
2 bed	12
3 bed	3
4 bed	1
	24

38. The contribution therefore is based on a 2-bedroom, 4 person dwelling at £157,300 – AHC (0.58) x 0.40 for 40% contribution. Therefore, the required contribution would have been £36,493.60.
39. In the event action is not taken and Big Mews becomes a lawful residential dwelling and immune from any enforcement action after 4 years, it would not be possible for the Council to obtain an affordable housing contribution, despite the identified need and that the above sum should have been paid. Therefore, the unauthorised residential use is contrary to the requirements of Policies SP4 and MG4 of the LDP as well as the Affordable Housing SPG.

Biodiversity

40. Policy MD9 of the LDP (Promoting Biodiversity) requires new development to conserve and where appropriate enhance biodiversity interests and mitigate the impacts of development. This is supported by the Council's SPG on Biodiversity and Development and the recently updated PPW.
41. The absence of an approved application means there has been no opportunity to consider any appropriate biodiversity mitigation or enhancement measures at the site. It is highlighted in the subtext of Policy MD9 of the LDP that *"it is nearly always possible to provide biodiversity enhancement on development sites. Levels of enhancement should be commensurate with the level of adverse impact and the scale of development."*
42. Ordinarily, a proposed development would be conditioned to require either mitigation or measures to enhance opportunities for local wildlife, in accordance with PPW and the Environment (Wales) Act 2016. Consequently, if the development and use of the barn for residential purposes is to become lawful, there would no longer be any scope to require the implementation of biodiversity enhancement measures.

Green Infrastructure

43. Planning Policy Wales now requires that "a green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal." The purpose of this is to demonstrate positive multifunctional outcomes which are appropriate to the site.
44. Green infrastructure (such as landscaping, green roofs, grass verges, sustainable drainage and gardens etc.) could be incorporated into a scheme depending on the needs and opportunities a site presents and should ascertain local priorities. Therefore, it will not be possible to secure the implementation of green infrastructure at the site should the unauthorised development become lawful.

Development in Mineral Safeguarding Area

45. The development is located within a mineral safeguarding area for limestone category 2. Despite this, the barns form part of a group of buildings, which include a semi-detached pair of dwellings. The site is also located within an SLA and therefore extraction in this area is likely to have an unacceptable impact on residential and visual amenity. Therefore, the fact the development lies within a minerals safeguarding area is not a reason to take enforcement action.

Conclusions

46. It is considered that by virtue of the scale and UPVC finish, the conservatory

extension added to the northwest side of Big Mews Barn fails to respond to the traditional stone finish and agricultural character and appearance of the converted barn. Furthermore, the smooth white rendered porch added to the southeast side of the barn is not lightweight, contrasts with the stone finish of the barn, and is considered to further domesticate the character of the building. Therefore, by virtue of the insensitive design, and scale in the case of the conservatory, both extensions are considered to detract from the character and appearance of the barn and therefore fail to accord with Policy MD11 of the Adopted LDP, as well as the Council's Conversion and Renovation of Rural Buildings SPG, and advice contained within Technical Advice Note 12 (TAN 12). On that basis, it is considered expedient to require both the conservatory and porch extensions to be removed and for the side elevations to be made good and stonework repaired.

47. It is considered that given the rural countryside location, just under 1 mile away from the settlement of Colwinston via a single-track unlit country lane, that those occupying Big Mews Barn would be highly reliant on the use of private cars to access work, local services, and amenities. The rural location also contributes to the dispersed pattern of dwellings in the countryside, which in turn places additional pressure on the Council to provide essential services and facilities in isolated locations. Therefore, given the lack of justification and that the barn does not support any rural enterprise, it is considered that the location is entirely unsustainable in this case and contrary to Policies MD1 and MD11 of the LDP. Furthermore, the absence of consent means that no affordable housing contribution has been paid and no biodiversity enhancement or green infrastructure measures have been agreed, contrary to Policies MD9 and MG4 of the LDP as well as Planning Policy Wales (Edition 11). Therefore, it is considered expedient to require the use of the Big Mews for residential use to cease.
48. It is considered that the decision would comply 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.

Resource Implications (Financial and Employment)

49. 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)

50. 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).
51. Notwithstanding this, the planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process for the Council to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development ought to be allowed.
52. In view of the conclusions reached in respect of the unauthorised conservatory and porch extensions, which are considered to detract from the character and

appearance of the barn, in addition to the residential use of Big Mews Barn which is considered unacceptable in principle by virtue of the unsustainable rural location and lack of any affordable housing contribution or biodiversity enhancement measures, the actions proposed are considered to be in the public's interest and outweigh any rights the individual has under the 1998 Act.

Equal Opportunities Implications (to include Welsh Language Issues)

53. 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 removal of the conservatory extension, identified as appendix 1, from the northwest side of Big Mews Barn
 - (ii) The removal of the porch extension, identified as appendix 2, from the southeast side of Big Mews Barn.
 - (iii) Repair with matching stonework and make good the side elevations of Big Mews Barn.
 - (iv) Permanently cease the use of Big Mews Barn as a residential dwelling.
 - (v) Remove from the land all construction and demolition materials, domestic fixtures and fittings and all other domestic items resulting from the carrying out of steps (i) and (iii) above.
- (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) It appears to the Council that the above breach of planning control consisting of the construction of a conservatory and porch extension, as well as the residential occupation of a converted barn comprising of two self-contained residential units in the countryside has occurred within the last 4 years.
- (2) By virtue of the scale and UPVC finish, the conservatory extension added to the northwest side of Big Mews Barn fails to respond to the traditional stone finish and agricultural character and appearance of the converted barn. Furthermore, the smooth white rendered porch added to the southeast side of the barn is not lightweight, contrasts with the stone finish of the barn, and is considered to further domesticate the character of the building. Therefore, by virtue of the insensitive design, and scale in the case of the conservatory, both extensions are considered to detract from the character and appearance of the barn and therefore fail to accord with Policy MD11 of the Adopted LDP, as well

as the Council's Conversion and Renovation of Rural Buildings SPG, and advice contained within Technical Advice Note 12 (TAN 12).

- (3) It is considered that given the rural countryside location, just under 1 mile away from the settlement of Colwinston via a single-track unlit country lane, that those occupying Big Mews Barn would be highly reliant on the use of private cars to access work, local services, and amenities. The rural location also contributes to the dispersed pattern of dwellings in the countryside, which in turn places additional pressure on the Council to provide essential services and facilities in isolated locations. Therefore, given the lack of justification and that the barn does not support any rural enterprise, it is considered that the location is entirely unsustainable in this case. Furthermore, the absence of consent means that no affordable housing contribution has been paid and no biodiversity enhancement or green infrastructure measures have been agreed. Therefore, it is considered that the unauthorised residential use of the Big Mews fails to accord with Policies MD1, MD11, MD9, and MG4 of the Vale of Glamorgan Adopted LDP as well as Planning Policy Wales (Edition 11), and as such, it is considered expedient to require the residential use of Big Mews Barn to cease.
- (4) 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.

Background Papers

Enforcement File Ref: ENF/2023/0053/PRO

Contact Officer - Mr. Marc Stephens, Tel: 01446 706185

Officers Consulted:

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

IAN ROBINSON
HEAD OF SUSTAINABLE DEVELOPMENT

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 30 NOVEMBER, 2023

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

6. 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.

2020/01218/HYB Received on 29 October 2020

APPLICANT: Mr Phil Worthing C/o Agent

AGENT: Mrs Emma Fortune, Brunel House, 2 Fitzalan Road, Cardiff. CF24 0EB

Leckwith Quay, Leckwith Road, Leckwith

Hybrid planning application for residential development for up to 228 dwellings (submitted in OUTLINE), associated highway and bridge improvement / realignment works (submitted in FULL). Development involves the demolition of all buildings on site and of the existing B4267 Leckwith Road Bridge

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 planning application is a hybrid application with the works to provide a replacement bridge and associated highway realignment submitted in full; and residential development, for up to 228 dwellings, on the northern and southern plateaus of the existing industrial site submitted in outline (with all matters reserved except for access).

This application is supported by an Environmental Statement since the Council determined that an Environmental Impact Assessment (EIA) was required, following a screening request in 2018. Having regard to the key issues identified in Schedule 3 of the Regulations and WO Circular 11/99, it was concluded that the size of the development, in context of the site, made the potential impact such that an EIA was required.

The proposals include details of the realignment of the existing B4267 Leckwith Road link and a new bridge crossing of the River Ely. The existing route runs through the site via an existing viaduct that is in a poor state of repair and is identified as suffering from 'concrete rot'. The proposals would include the realignment of the road further to the north and west of the existing realignment, inclusive of access points into the prospective residential development within the existing industrial/commercial area.

Outline planning permission is sought for the provision of 228 dwellings, with access being considered as part of this application and all other matters reserved. The land is split into two development parcels, the northern plateau of circa 1.3ha, and the larger southern plateau of 6.4ha. The proposed masterplan indicates the provision of circa 228 dwellings (95 apartments, 78 duplex dwellings and 55 houses). This would be a mixture of flatted development and also dwellings of varied form. In essence this would be enabling development to facilitate the renewal of the road as detailed above and as such a reduced S106 package of 10% affordable housing and circa £300,000 towards replacement tree planting and education provision has been proposed following full consideration of the viability of the development.

The principal issues for consideration with the application are the principle of development; highway matters; loss of employment land; design & visual Impact; impact upon amenity of neighbouring occupiers; trees; landscape; ecology; flood risk and drainage; historic environment; noise & air quality; contaminated land and planning obligations and viability.

Whilst the proposal would result in tension with the development plan in terms of its location and lack of allocation for such a use within the adopted development plan, officers considered that significant weight must be afforded to the renewal of an identified element of the strategic highway network. As such the application is recommended for approval subject to conditions and a legal agreement.

Members should also note that under the Town and Country Planning (Major Residential Development) (Notification) (Wales) Direction 2020, planning applications made on or after 15 January 2020 require that the Welsh Ministers be notified of applications made on or after that date for any proposed residential development of more than 10 residential units, or residential development on more than 0.5 hectares of land, which is not in accordance with one or more provisions of the development plan in force and which the local planning authority do not propose to refuse.

SITE AND CONTEXT

The site, comprising an area of circa 8.3 ha is located adjacent to the River Ely on the border between the administrative boundaries of Cardiff (to the east) and the Vale of Glamorgan (to the west). The site is known as Leckwith Yard/Works and is accessed off the B2673 Leckwith Road via two bridges, the Leckwith Road Viaduct, which crosses the site and the site is directly access over the Grade II* listed building and Scheduled Ancient Monument 'Old Leckwith Bridge'. An aerial photograph showing the location of the site is shown below:



To the south and west of the site are large areas of woodland comprising Leckwith Wood and Factory Wood. The River Ely runs along the north-eastern boundary of the site, with the A4232 Ely-Grangetown Link Road. The site is made up of two plateaux either side of the bridge, both largely cleared and levelled land for industrial and commercial use with associated buildings and two existing residential properties.

The site is situated outside of any settlement boundaries and within the defined countryside. The site is bordered by the Factory Wood Site of Importance for Nature Conservation (SINC) and the Ely Valley & Ridge Slopes Special Landscape Area (SLA). The site is adjacent to the River Ely and is also partly within Flood Zone C1 as identified within the development advice maps accompanying the current TAN15. A Health and Safety Executive Consultation Zone is located to the northern end of the site.

DESCRIPTION OF DEVELOPMENT

The planning application is a hybrid application with the works to provide a replacement bridge and associated highway realignment submitted in full; and residential development, for up to 228 dwellings, on the northern and southern plateaus of the existing industrial site submitted in outline (with all matters reserved except for access).

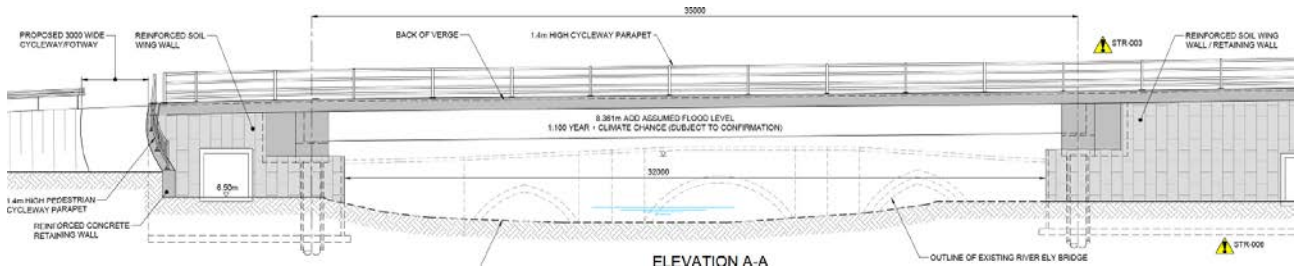
This application is supported by an Environmental Statement since the Council determined that an Environmental Impact Assessment (EIA) was required, following a screening request in 2018. Having regard to the key issues identified in Schedule 3 of the Regulations and WO Circular 11/99, it was concluded that the size and nature of the development, in context of the site, made the potential impact such that an EIA was required.

Full application

The proposals include details of the realignment of the existing B4267 Leckwith Road link and a new bridge crossing of the River Ely. The existing route runs through the site via an existing viaduct that is stated to be in a poor state of repair and is identified as suffering from 'concrete rot.

The proposals would include the realignment of the road further to the north and west of the existing realignment, inclusive of access points into the prospective residential development within the existing industrial/commercial area. It would also involve works within the Cardiff City Council administrative area (subject of application 20/02288/MJR). A plan showing the proposed route of the realigned road (existing alignment shown in blue)

Circa 700 metres of road with a 3.5m wide cycleway and footway on one side of the road and a 2m wide footway and signalised junction providing access to the wider site, where the new bridge and highway works will link into the works proposed within Cardiff.

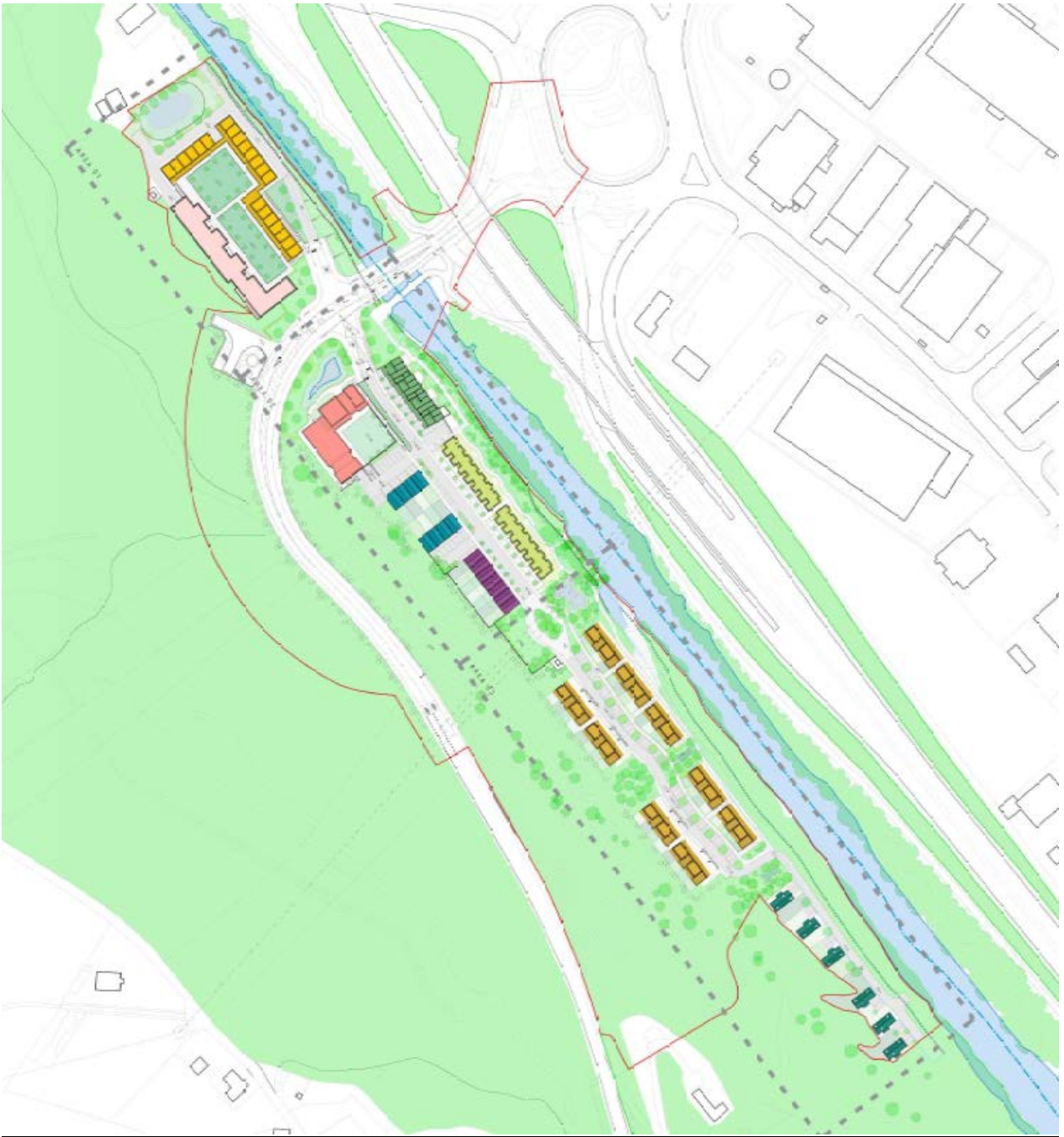


Elevation of Proposed Bridge

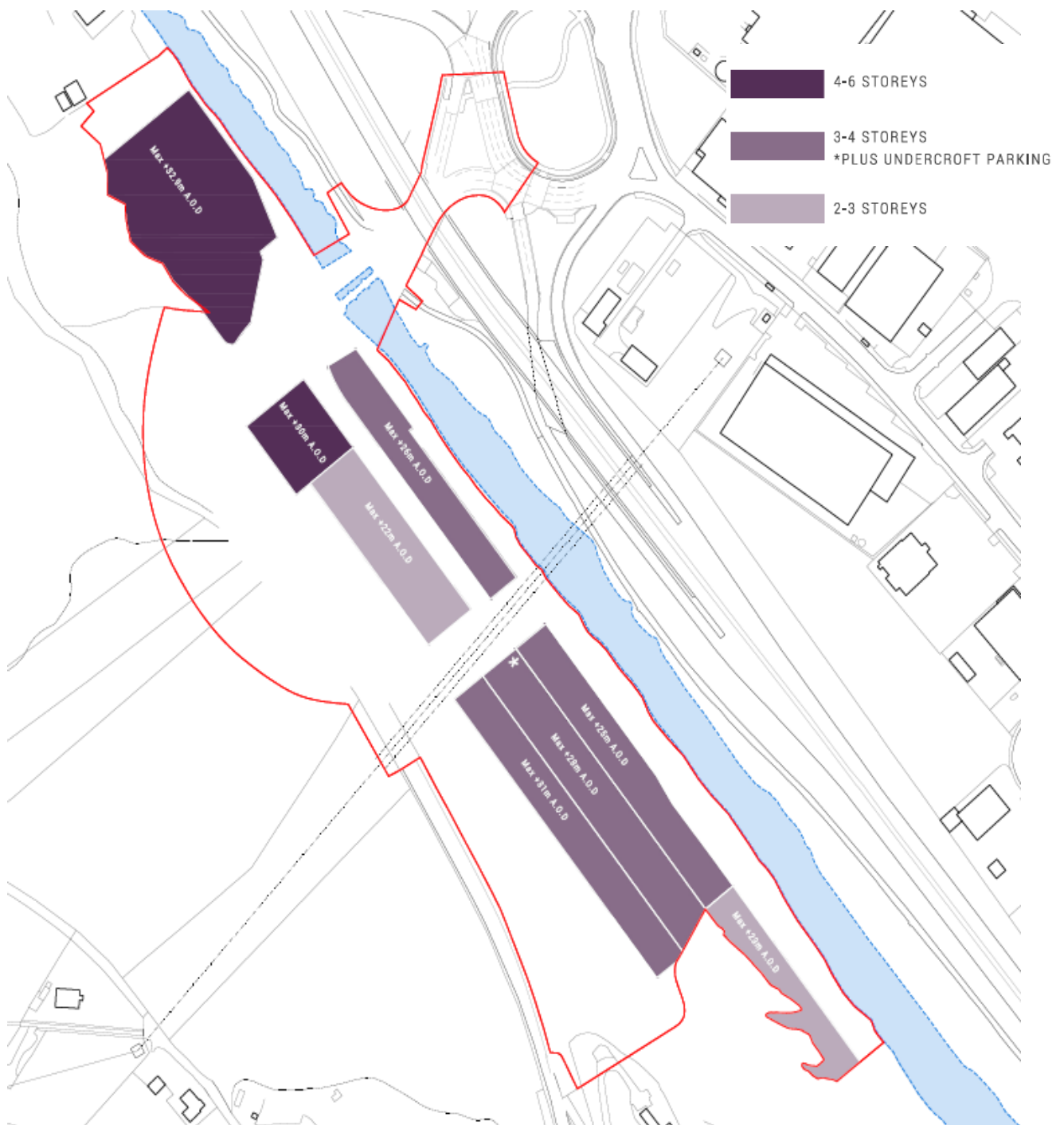
Outline planning application

As amended, outline planning permission is sought for the provision of 228 residential units, with access being considered as part of this application and all other matters reserved.

The land is split into two development parcels, the northern plateau of circa 1.3ha, and the larger southern plateau of 6.4ha. The proposed masterplan indicates the provision of circa 228 dwellings (95 apartments, 78 duplex dwellings and 55 houses). This would be a mixture of flatted development and also dwellings of varied form. Based on the submitted viability appraisal, the proposed mix of dwellings is as follows:



The application has been supported by a scale parameter plan and indicative masterplan, that indicate a mixed form of development inclusive of flatted blocks of between 4-6 storeys in height to the north of the site and dwellinghouses of both 3-4 storeys and 2-3 storeys towards the southern end, as shown on the plan below:



PLANNING HISTORY

1981/01768/FUL, Address: J. M. Lincoln, Leckwith Bridge, Leckwith Road, Cardiff, Proposal: Retention of existing use of land for concrete product manufacture and associated storage and sales, Decision: Refused

1982/00383/FUL, Address: Land adjoining Leckwith Bridge House, Leckwith Bridge, Cardiff, Proposal: Sale of tropical and exotic fish, aquaria and aquarium equipment, Decision: Approved

1982/01951/FUL, Address: Leckwith Bridge, Leckwith Road, Cardiff, Proposal: Engineering operations, involving filling and grading of land, to produce area for industrial use, Decision: Refused

1982/01952/FUL, Address: J. M. Lincoln, Leckwith Bridge, Leckwith Road, Cardiff, Proposal: Use of land for concrete product manufacture and associated storage and sales, Decision: Refused

1983/00885/FUL, Address: Bridge House, Leckwith Road, Cardiff, Proposal: Garage and games room, Decision: Approved

1984/00632/FUL, Address: J. M. Lincoln, Leckwith Bridge, Leckwith Road, Cardiff, Proposal: Extension of enclosed display area and new workshop, Decision: Refused

1984/01059/FUL, Address: Leckwith Bridge, Leckwith Road, Cardiff, Proposal: Erection of bridge and new access road, Decision: Approved

1986/00222/FUL, Address: J. M. Lincoln, Leckwith Bridge, Leckwith Road, Cardiff, Proposal: Engineering operations, involving filling and grading of land to produce level area, Decision: Approved

1986/00406/FUL, Address: J. M. Lincoln, Leckwith Bridge, Leckwith Road, Cardiff, Proposal: Retention of existing use of land for concrete product manufacture and associated storage and sales, Decision: Approved

1986/01036/FUL, Address: J. M. Lincoln, Leckwith Bridge, Leckwith Road, Cardiff, Proposal: Use of land for concrete product manufacture, Decision: Refused

1990/00929/OBS, Address: Leckwith Bridge House, Cardiff, Proposal: Reposition of existing 11Kv line, Decision: Permittal (OBS – no objections :request conditions)

1990/01187/OUT, Address: Leckwith Bridge, Cardiff, Proposal: Starter Industrial Units, Decision: Withdrawn

1991/01145/FUL, Address: Leckwith Bridge, Leckwith, Nr. Cardiff, Proposal: Proposed workshop units. Pattern shop & glass fibre moulds workshop, Decision: Approved

1994/00148/FUL, Address: J. M. Lincoln Concrete Products Site, Leckwith Bridge, Cardiff – Jetty located within, Proposal: Retention of Jetty, Decision: Approved

1998/00090/FUL, Address: Leckwith Bridge Yard, Leckwith Road, Cardiff – Land to north west of, Proposal: To clear and level area to provide a storage area for clean re-cyclable hardcore (Phase I), Decision: Refused

1998/01040/FUL, Address: Leckwith Bridge Yard, Leckwith Road, Cardiff – Land to north west of, Proposal: To reinstate excavated former overgrown/self seeded meadow, Decision: Approved

1998/01077/FUL, Address: Leckwith Bridge Arches, Leckwith Road, Leckwith, Proposal: Single storey extension to provide staff facilities and secure storage, Decision: Approved

1999/00083/FUL, Address: Leckwith Quay, Leckwith Road, Cardiff, Proposal: Vehicle maintenance and storage buildings, Decision: Approved

1999/00198/FUL, Address: Leckwith Quay, Leckwith Road, Cardiff, Proposal: Office extension and car park, Decision: Approved

2000/00143/FUL, Address: Leckwith Bridge Yard, Leckwith, Proposal: New site access including steel bridge, Decision: Approved

2000/00189/OBS, Address: Leckwith Bridge Yard, Leckwith Road, Canton, Proposal: Road works to form new access and steel bridge over river

2001/01017/FUL, Address: Leckwith Bridge Yard, Leckwith, Proposal: New access bridge over River Ely, Decision: Approved

2001/01127/OBS, Address: Leckwith Bridge Yard, Leckwith Road, Cardiff, Proposal: New access bridge using second hand steel bridge, Decision: Permittal (OBS – no objections :request conditions)

2003/00349/FUL, Address: Leckwith Yard, Leckwith (north secure compound), Proposal: Erection of car stacking system (resiting from southern yard), Decision: Approved

2003/00833/FUL, Address: Compound B, Mobile Gas, Leckwith Bridge, Leckwith Road, Cardiff, Proposal: To remove existing metal cladding roof and replace with pitched roof of timber & tile construction, to include retention of whole building., Decision: Approved

2003/01516/FUL, Address: Leckwith Quay, Leckwith Road, Cardiff, Proposal: Temporary change of use of part of yard for parking 20 transporters for a three year period, Decision: Approved

2005/01797/FUL, Address: Leckwith Yard, Leckwith, Proposal: Erection of car stacking system for a temporary period of two years. Renewal of planning permission 03/000349/FUL, Decision: Approved

2008/00964/RG3, Address: Leckwith Wood, Leckwith, Proposal: To surface an existing forest timber/management access track over a total length of 10nviron. 1500 m with approved recycled hardcore to a depth of 10nviron. 45 cms and width of 10nviron 3m. Level turning/stacking bays instated 10nviron. every 150m, Decision: Approved

2010/00087/FUL, Address: Leckwith Concrete Products, Leckwith Bridge Yard, Leckwith R, Proposal: Retention of steel building for storage, Decision: Approved

2016/00620/LAW, Address: Old Leckwith Bridge, Leckwith Road, Canton, Proposal: The works involve minor ground raising along the West bank of the River Ely throughout the Leckwith Bridge Industrial Estate, and the construction of two new low flood walls adjacent to Leckwith Old Bridge, Decision: Approved

2019/01198/SC2, Address: Land at Leckwith Quays, Leckwith Road, Proposal: Request for a formal opinion on the scope of an Environmental Statement (ES) to be submitted in conjunction with a hybrid planning application for residential development (to be submitted in Outline), associated highway and bridge improvement works (to be submitted in Full), Decision: EIA (Scoping) – Further info required

CONSULTATIONS

Michaelston le Pit with Leckwith Community Council were consulted with regard to the application and initially raised a strong objection to the proposals, noting its scale and visual impact; impact on woodland; the erosion of the green area around Cardiff; traffic impacts; impact on SINC's and that heritage matters have not been fully considered within the submissions. Further comments were received raising concerns with regard to transport impacts including relating to matches at Cardiff City Stadium; need for an arboricultural impact assessment; landscape and visual impact of the proposals; climate change and flooding and inadequate assessment of archaeology in the submissions.

The Council's Highway Development section was consulted with regard to the application and noting the nature of the scheme were involved in extensive negotiations throughout the application.

The Transport Assessment has been assessed by the Council's Highway Development team and audited by Asbri Transport. It was concluded that the findings of the Transport Assessment were accepted and that outstanding matters would be resolved through the detailed design stage of the proposals.

With regard to highways structures including those relating to the provision of the new bridge, following extensive discussion, Highway Development have confirmed that they have 'no further adverse comment' to make.

They have provided comments with regard to the currently submitted indicative masterplan, including those with regard to the provision of raised tabletop; the provision of the footway cycleway; removal of internal roundabout and incorporation of turning head; parking space provision and other details of highway geometry.

They also request conditions relating to full engineering details with regard to road layout, junctions and structures; applicant entering into a suitable agreement to secure implementation of works; technical approval of the bridge; construction environmental and traffic management plans; details of diversionary routes, temporary signage, traffic lights and TROs associated with the redevelopment of the bridge; Sustainable Drainage Systems; Condition Surveys and associated remedial works.

The Council's Public Rights of Way Officer was consulted who advise that Public Right of Way No. 1 Leckwith (status-Footpath) crosses the development and advised that this must be available for safe use by the public at all times; no materials be stored on the footpath and a legal diversion be secured from the Council if necessary. Following reconsultation they note that additional documents provided did not reference the public right of way and ask how the proposals would accommodate this within the development.

Cardiff County Council was consulted as an adjoining authority and state that they have 'no objections to the development' subject to comments being considered during application or subsequent highways agreement with regard to "access to 3rd party land" being unacceptably close to the controlled toucan crossing on the Ely Trail and lighting column to other side; pinch point adjacent to Leckwith Gryatory cycle track and that the concept road layout needs to be subject of a Road Safety Audit. **Officer note:** With the exception of the consideration of future layout of any reserved matters submission, the 3rd party land issues fall outside of the planning process whereas the impacts upon the Ely

Trail and Leckwith Gyratory fall within the Cardiff Council administrative area.

Dinas Powys Community Council were consulted and object to the proposals due to concerns that public health concerns including those relating to noise and air pollution have not been properly assessed; impact on local facilities including lack of public transport linkages; ecological impact; impact upon busy commuter route; highways impacts; water and flooding impacts upon main route (including if a hydraulic modelling assessment has been undertaken); impact upon heritage assets and visual impact.

Shared Regulatory Services (Pollution Control) were consulted and initially requested that a noise report be submitted in support of the application to assess traffic and plant noise impacts and also request a demolition and construction environmental management plan.

Following the submission of additional details (including a noise assessment and amended masterplan design), further comments were received acknowledging the amended layout and that the principles of using building mass and design to screen amenity areas and 'It is advised that the applicant continue to consider providing external acoustic shadows and havens across the site especially noting the detached standalone blocks and higher external noise levels to the south of the site.' With regard to internal noise they state they note that 'the applicant has advised with good design including the development of dual aspect accommodation they can achieve BS8223 stated internal noise levels.' As such they conclude that the application should be conditioned to achieve the following:

1. That external amenity areas in the form of and due to building mass, acoustic shadows and havens be developed across the whole site so to achieve a minimum of below 55dB(A) with ideally a level of 50dB(A) being achieved.
2. The internal noise levels as per *British Standard 8233: 2014 'Guidance on sound insulation and noise reduction for buildings'*, be achieved with the minimal use of sealed glazing units and mechanical ventilation so that future occupants are not living in sealed boxes.
3. As acknowledged by the applicant further thermal modelling shall take place so to ensure both a high level of thermal comfort is achieved, the requirements of Building Regulation Document O aside, along with a good quality internal acoustic environment.

Shared Regulatory Services (Contaminated Land, Air & Water Quality) were consulted with regard to the application. Following consideration of the details provided they request that conditions be attached to any consent granted with regard to ground gas protection; contaminated land assessment; contaminated land remediation and verification plan and subsequent implementation of necessary measures; unforeseen contamination; imported soils and aggregates; use of site won materials and informative with regard to extent of contamination and unstable land.

In terms of air quality, separate comments were received noting that an Air Quality Assessment (AQA) has been undertaken and advise with regard to construction impacts from dust be controlled by a suitable condition requiring a Construction Environmental Management Plan. With regard to the operation phase, clarification was initially received raising queries with regard to suggested travel plan measures and reduced vehicular trips.

Following further clarification, they indicate that they have 'no immediate concerns or comments in regard to air quality due to the low risk assessment during construction phase, the modelled concentrations provided in the Chapter 11 [of the Environmental Statement] and the comments/assessments provided' in reply to previous comments. They request however that detailed mitigation measures to control construction traffic should be discussed with the Vale of Glamorgan Council to establish most suitable access and haul routes; cleaning of vehicles and timing of large-scale movements.

The Council's Conservation (Planning) Officer was consulted, who noted that Cadw's views should be sought with regard to the impact of the proposals upon the ancient monument. With regard to the archaeological desk-based assessment they note that it makes a number of recommendations including a watching brief and a Level 3 building survey of Leckwith Bridge House and a photographic survey of the Leckwith New Bridge and Viaduct, and Drain cover to mitigate their loss. I see no reason to disagree with these recommendations and would welcome conditions requiring this.'

The officer also notes the comments of the Community Council but confirmed that the only designated historic assets within 1km of the site are scheduled monument of Leckwith Bridge (GM014); Grade II* listed buildings of Old Leckwith Bridge (Ref 13748 & 26487 (one reference for separate community areas)).

The Council's Archaeological Advisors Glamorgan Gwent Archaeological Trust was consulted and most recently state that 'it remains the case that the proposal requires archaeological mitigation'. The retention of structures in-situ is recommended and two conditions requested for a scheme of historic building recording and analysis and also for a written scheme of investigation to be submitted prior to commencement of development.

Cadw, Ancient Monuments were consulted and advise that circa 13 scheduled ancient monuments (SAM) and 11 registered parks and gardens fall within 3km of the proposed development, and note that apart from the SAM of Leckwith Bridge, that the only assets with intervisibility with the development would be the historic parks and gardens of Thompson's Park (Sir David's Field) and Fairwood House. However, they note the 'proposed development will not have an impact on the settings of these registered parks and gardens.'

With regard to Leckwith Bridge they note that Leckwith New Bridge is a substantial structure which dominates the scheduled monument, its demolition will therefore benefit the setting of the old bridge: however the replacement bridge will also dominate the scheduled monument and have an impact on its setting. The new bridge is a simpler structure to the Leckwith New Bridge and the proposed residential development will provide paths and public access that will allow the scheduled monument to be observed. As such whilst the proposed bridge will have a considerable impact on the setting of scheduled monument GM014 Leckwith Bridge this will be slightly less than the current impact of the Leckwith New Bridge.'

Further clarification was sought with regard to any potential impacts upon the historic assets as a result of the residential development. In this regard Cadw advised that '*As noted in our original advice the setting of the bridge relates to its' position crossing the river and the local topography rather than any views from it. The residential development is situated in an area that has already been significantly altered by modern development. Whilst the change to a residential use will increase the number of buildings in this area and*

be a visual alteration, this will not significantly alter the way that the bridge is experienced, understood and appreciated and therefore will not have a significant impact on the setting of scheduled monument GM014.'

Dwr Cymru Welsh Water were consulted who advise that a 975mm surface water sewer crosses the site and that no part of any building would be permitted within a protection zone of 5 metres either side of the centreline (although the assets in question are shown on the attached maps to fall within Cardiff's administrative area). With regard to foul flows they advise that no problems are envisaged for domestic discharges with capacity within the local wastewater treatment works from the site although identify a point of connection (ST16751201). They however advise that water supply would need further hydraulic modelling assessment.

They recommend that conditions relating to foul water only discharging to public sewerage network and a scheme of potable water be attached to any consent granted in addition to informative with regard to connection to DCWW assets and those that are not shown on their records.

The Council's Ecology Officer initially raised objection to the proposals due to the lack of clarity with regard to the significant loss of woodland SINC habitat and the lack of suitable mitigation; further details required for protection and mitigation of protected species that would be impacted by the proposals and wider impact of the change of use on adjacent Leckwith and Factory Woods.

Following extensive negotiation and the submission further ecological survey work, the Council ecologist raises no objection and requests notes and conditions in connection with further precautionary work for tree clearance with regard to bats; a wildlife protection plan for each species and mitigation required; a Construction Environment Management Plan including measures to protect biodiversity interest at the site and a biodiversity management plan. They also request further details with regard to mitigation for the loss of trees as a result of the works; lighting strategies for each subsequent phase; permeable boundaries for wildlife such as hedgehogs and also request that access to the River Ely be restricted.

The Council's Landscape Section was consulted with regard to the works and initially asked for clarification with regard to a number of factors including but not limited to details contained within the LVIA including a potential additional viewpoints and photomontages and clarification of details within suggested views; concerns over woodland impact and the loss of trees and lack of suitable information to detail number of trees to be lost; additional cross-sections through the development and a more refined landscape strategy.

Following extensive negotiation and the receipt of amended documents, still raised some concern with regard to the loss of trees and the lack of potential suitable space within the development to provide the necessary number of replacement trees/planting to mitigate their loss. In terms of impacts to trees they request that an arboricultural method statement and tree protection plan be conditioned as part of any consent granted and reserved matters consents would need to address comments with regard to 'ecotone' adjacent to woodland. They also provided comments noting the general distribution of play through the site would appear to be acceptable albeit provide comments with regard to their position relative to dwellings and position relative to power lines. They request further details with regard to the landscaping of drainage areas including swales and attenuation ponds and potential conflict with tree planting and below ground drainage. Additional viewpoints for

L VIA are welcomed and comments provided in terms of visual impact acknowledging local impact but that 'wider impact appears to be minimal'.

Comments have also been received from the **Cardiff and Vale University Health Board** who make recommendations with regard to the LPA being satisfied with regard to defined noise mitigation is not achieved at the detriment of health and wellbeing and that this is suitably controlled by condition; site investigation and preliminary risk assessment and suitable remediation strategy be sought to protect human health and suitably conditioned; consideration being given to the range and form of users of green spaces within the development; needs of different cycle users being considered; priority to pedestrians and cyclists in new development; development to be designed to reflect the needs of disabled people and development designed to meet needs of varied ages and for those homeworking.

Environmental Health (Private Sector Housing) was consulted although no comments had been received at the time of writing this report.

The Councils Strategic Property Estates section was consulted although no comments had been received at the time of writing this report.

The Council's Waste Management section had been consulted although no comments had been received at the time of writing this report.

Health and Safety Executive online module was consulted and advised Against issuing planning permission. *'The assessment indicates that the risk of harm to people at the proposed development site is such that HSE's advice is that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case.'*

Following consultation with a HSE Officer they have confirmed that *'although a site may no longer be operational, the HSE consultation distance will remain in place until HSE is notified by hazardous substances/planning authority that the hazardous substances consent(s) which apply to the site have been formally revoked. Until the hazardous substances consent is formally revoked, HSE's consultation zones will remain in place. HSE's advice on planning application 2929/01218/HYB will only be withdrawn when the hazardous substances consent has been formally revoked under Section 14 of the Planning(Hazardous Substances) Act 1990 and confirmed by the Secretary of State in accordance with Section 15.'*

Housing Strategy (Affordable Housing) advise that there is an evidenced need for affordable housing within the Vale of Glamorgan. They have confirmed that the most up-to-date information for the ward indicates the following level of need within the Dinas Powys ward:

Homes4u		%
1 Bed	176	55
2 Bed	88	28
3 bed	50	15
4 bed	8	2
Total	322	

Current need within Llandough Ward:

LLANDOUGH	
1 bed	112
2 bed	55
3 bed	27
4 bed	5
5 bed	1
6 bed	1
	201

Whilst noting their disappointment with the provision of 10% affordable housing, opposed to the policy requirement of 40% they advise that the following requirement would be sought:

23 units

14 x 1 bed

6 x 2 bed

3 x 3 bed

National Grid (previously) Western Power Distribution were consulted with regard to the application and initially advised that they have assets within the site with LV, 11KV, 33KV and 132KV lines potentially affected by the proposal. They note that if planning permission were to be granted this does not mean Western Power distribution grant consent to build within proximity of the apparatus and as such requested that the applicant make separate request to investigate, noting health and safety legislation in place, noting proximity of dwellings, playgrounds and other restrictions adjacent to or beneath their apparatus.

Following further discussion and the submission of further information from the applicant they have advised that they 'have provided multiple budget estimates for the proposed works, to divert our assets, as per the email below we believe to be correct, but this is subject to any possible third party request and the applicant will need to make their own full application to us for any diversion or new connection works.'

The Council's Transport and Road Safety section was consulted and their comments have been included within the Highway Development observations noted above.

Natural Resources Wales was consulted and initially raised significant concerns including with regard to flood risk and the requirement for the hydraulic modelling to be submitted for review; further information with regard to bats; the need for a compliance assessment against the Water Framework Directive and the need for a Habitats Regulation Assessment to be undertaken.

Following the submission of further information and discussion with NRW the submitted hydraulic modelling was considered to be appropriate and a revised Flood Consequences Assessment dated December 2022 was submitted. They note that the advice with regard to increased flood risk elsewhere is heavily dependent on the proposed culverts being constructed and operating as indicated in the final model of the FCA and note if any changes to the design are undertaken the consequences of flooding must be reassessed.

In terms of flood risk elsewhere they advise a predicted increase in floods of 20mm in the extreme 0.1% annual probability event (1 in 1000 year) to a wooded area immediately downstream of the site. They note that no structures or buildings are shown to be impacted. Noting the reductions in flood risk in the wider areas described within the FCA they advise the LPA to consider this in the planning balance noting the provisions of paragraph A1.12 of TAN15. ("A site should only be considered for development if the following conditions can be satisfied; - No flooding elsewhere.").

With regard to other increases in flooding within the wider area in circumstances of 80% blockage to centre arch of historic bridge and 30% of upper section of both bypass culverts, NRW advise that that they 'have no concerns over these changes which are likely to be modelling instabilities rather than representing actual flooding mechanisms during this flooding event.' In the same eventuality and a 1% Climate Change Adaptation event, they also indicate shallow flooding of circa 50mm may be experienced in 'external and ancillary areas only' which they understand to be landscaped areas, although advise they have no further concerns subject to the LPA being satisfied.

They also advise that the soffit level of the proposed bridge being set at 8.73m AOD, represented in the modelling.

NRW's most recent comments indicate that further details of an otter ledge (600m wide and 600mm below the bridge soffit) be provided. Whilst they note that these details should be provided prior to determination they indicate that subject to the general arrangement drawing of the bridge not being listed as an approved plan and conditions requiring soffit levels to be set at 8.73m AOD and an Otter Conservation Plan condition be attached to any permission granted.

With reference to the Habitats Regulation Assessment, a response was prepared by the Council Ecologist and submitted to NRW. Following this, NRW confirm that they 'agree with the conclusions of the HRA.' They note they are satisfied that the concerns with regard to impacts upon Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA), RAMSAR and SSSI have been suitably addressed.

With regard to the Cwm Cydfin Site of Special Scientific Interest they indicate that to avoid damage to the SSSI through increased public access via the SINC woodland adjacent to the site they recommend that 'permanent fencing and/or a design that minimises access to the adjacent woodland should be proposed at Reserved Matters stage when full details are being prepared. The fencing and/or design features should be maintained during the lifetime of the development in order to reduce damage to the SSSI.'

Further to the above, they also recommend that conditions requiring a Bat Conservation Plan; Otter Conservation Plan and Lighting Scheme, be required in addition to the need for a European Protected Species Licence.

With regard to pollution prevention they request a condition requiring a Construction Environment Management Plan and a Biodiversity Risk Assessment with regard to invasive non-native species be attached to any permission given. In terms of land contamination they also request conditions requiring a scheme to deal with risks relating to contamination; contamination verification report; unsuspected contamination; surface water drainage (with reference to ensuring no unacceptable risk to controlled waters) and piling/foundation design be attached to any consent given.

The **Joint Committee of the National Amenity Societies** was consulted with regard to the application and comments were received from the **Society for the Protection of Ancient Buildings** who state that 'given the nature of the development and without visiting the site, we have no further observations to make in addition to those raised in the consultation response by Cadw and the Local Conservation Officer.'

South Wales Police were consulted and provided a number of observations and recommendations in line with Secured by Design guidance. These include those relating to footpaths, perimeter security, orientation of dwellings, parking (including avoidance of undercroft parking), planting, lighting, overlooking of communal areas, doors, windows and access control.

Dinas Powys Ward members were consulted, whilst there was some discussion with Cllrs Driscoll and Franks no formal comments have been received.

The Council's Education Section provided comments with regard to the initially submitted proposals for 250 dwellings based upon the capacity at the time, indicating the need for education contributions to provide for 25 nursery places (no capacity available); 63 places for primary age children (English medium and denominational) and 52 places for Secondary and Post 16 education students. As such they indicate a contribution of circa £3,054,408 would be required.

First Minister – Welsh Government was consulted with regard to the development being EIA development although no comments have been received.

Comments were also received from **Councillor Ian Johnson** who raised the following queries

- Pedestrian access between the site and the facilities in Cardiff and how these would work in practice
- What discussions have taken place between the Vale and Cardiff Education and Health facilities
- Demand for public sector housing in the area and queries with regard to demand for Llandough Ward
- Availability of viability details

Comments were also received from **Councillor Stallard** raising concern with regard to the lack of priority within the development with for pedestrians/cyclists; lack of bus lane/priority lights for buses within new road alignment and wanting to limit vehicular access over the old listed bridge.

REPRESENTATIONS

The neighbouring properties were consulted on 4 November 2020 and 20 December 2022. Site notices were also displayed on 13 November 2020 and 8 February 2023 and the application was also advertised in the press on 11 November 2020 and 29 December 2022. At the time of writing this report, three letters of representation have been received raising the following:

- Scale of development
- Traffic problems
- Pollution impacts including on occupiers of the development

- Lack of suitable affordable housing provision
- Lack of consultation of neighbouring properties
- Lack of underpass provision for Ely Trail
- Over-reliance on shared pedestrian/cycleways
- Lack of financial contribution towards Ely Trail
- Cycle parking and charge points not included in residential element
- Position of signs on general arrangement and potential conflict with footway/cycleway users
- Over-engineered junctions
- Lack of linkage from northern parcel to Ely Trail

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 Vale of Glamorgan Adopted Local Development Plan 2011-2026 forms the local authority level tier of the development plan framework. The LDP 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 SP2 – Strategic Sites
 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 MG4 – Affordable Housing
 POLICY MG16 – Transport Proposals
 POLICY MG17 – Special Landscape Areas
 POLICY MG19 – Sites and Species of European Importance
 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
 POLICY MG22 – Development in Minerals Safeguarding Areas

Managing Development Policies:

POLICY MD1 – Location of New Development
 POLICY MD2 – Design of New Development
 POLICY MD4 – Community Infrastructure and Planning Obligations
 POLICY MD6 – Housing Densities
 POLICY MD7 – Environmental Protection
 POLICY MD8 – Historic Environment

POLICY MD9 – Promoting Biodiversity

POLICY MD16 – Protection of Existing Employment Sites and Premises

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

Future Wales: The National Plan 2040:

Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process. The following chapters and policies are of relevance in the assessment of this planning application:

Chapter 3: Setting and achieving our ambitions

- 11 Future Wales' outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

Chapter 4: Strategic and Spatial Choices: Future Wales' Spatial Strategy

- Guiding framework for where large-scale change and nationally important developments will be focussed over the next 20 years.
- Strategy builds on existing strengths and advantages and encourages sustainable and efficient patterns of development.

Chapter 5 – The Regions

- The Vale of Glamorgan falls within the South East region.
- Regional policies provide a framework for national growth, for regional growth, for managing growth and supporting growth.
- In the absence of SDPs, development management process needs to demonstrate how Future Wales' regional policies have been taken into account.

Policy 1 – Where Wales will grow

- Supports sustainable growth in all parts of Wales.
- Development in towns and villages in rural areas should be of an appropriate scale and support local aspirations and need.

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

- Based on strategic placemaking principles.

Policy 7 – Delivering Affordable Homes

- Focus on increasing the supply of affordable homes

Policy 8 – Flooding

- Focus on nature-based schemes and enhancing existing defences to improve protection to developed areas.
- Maximise opportunities for social, economic and environmental benefits when investing in flood risk management infrastructure.

Policy 9 – Resilient Ecological Networks and Green Infrastructure

- Action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature-based approaches to site planning and the design of the built environment.

Policy 11- National Connectivity

- Support developments associated with improvements to national connectivity.
- Where appropriate, new development should contribute towards the improvement and development of the National Cycle Network and the key links to and from it.

Policy 12- Regional Connectivity

- Priority in urban areas is improving and integrating active travel and public transport.
- Priority in rural areas is supporting the uptake of ULEV vehicles and diversifying and sustaining local bus services.
- Active travel must be an essential and integral component of all new developments.
- New development and infrastructure should be integrated with active travel networks and where appropriate ensure new development contributes towards their expansion and improvement.
- Supports reduced levels of car parking in urban areas, car free developments in accessible locations and developments with car parking spaces that can be converted to other uses over time.
- Where car parking is provided for new non-residential development a minimum of 10% of car parking spaces should have electric vehicle charging points.

Policy 33 – National Growth Area – Cardiff, Newport and the Valleys

- National growth area is the focus for strategic economic and housing growth, essential services and facilities, advanced manufacturing, transport and digital infrastructure.
- Supports development in the wider region which addresses the opportunities and challenges arising from the region's geographic location and its functions as a Capital region.

Policy 36 – South East Metro

- Supports the development of the South East metro and refers to maximising associated opportunities arising from better regional connectivity.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales,

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 – People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

Chapter 3 – Strategic and Spatial Choices

- Good Design Making Better Places
- Promoting Healthier Places
- Accessibility
- Previously Developed Land
- Development in the Countryside (including new housing)

Chapter 4 – Active and Social Places

- Transport
- Living in a Place (housing, affordable housing and gypsies and travellers and rural enterprise dwellings)
- Community Facilities
- Recreational Spaces

4.1.1 The planning system should enable people to access jobs and services through shorter, more efficient and sustainable journeys, by walking, cycling and public transport. By influencing the location, scale, density, mix of uses and design of new development, the planning system can improve choice in transport and secure accessibility in a way which supports sustainable development, increases physical activity, improves health and helps to tackle the causes of climate change.

4.1.10 The planning system has a key role to play in reducing the need to travel, particularly by private car, and supporting sustainable transport, by facilitating developments which:

- are sited in the right locations, where they can be easily accessed by sustainable modes of travel and without the need for a car;
- are designed in a way which integrates them with existing land uses and neighbourhoods; and
- make it possible for all short journeys within and beyond the development to be easily made by walking and cycling

4.2.18The criteria for identifying housing led regeneration sites can include demonstrating the sites have high credentials in terms of sustainable development and placemaking, such as being aligned to transport hubs or addressing contamination or industrial legacy; proven need and demand for housing in that area; and that the proposed intervention is the best means of addressing a site's contamination and constraints.

Chapter 5 – Productive and Enterprising Places

- Transportation Infrastructure

5.3.13 The process of designing new road schemes and road improvements should take into account the transport hierarchy, whereby active and sustainable transport is considered before private motor vehicles. This will help to minimise community severance from a scheme and its impacts on the safety, convenience and amenity of routes for journeys on foot, bicycle and public transport.

Chapter 6 – Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)

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 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 13 – Tourism (1997)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 16 – Sport, Recreation and Open Space (2009)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 23 – Economic Development (2014)
- Technical Advice Note 24 – The Historic Environment (2017)

Welsh National Marine Plan:

National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals within the Marine Plan Area for Wales.

Supplementary Planning Guidance:

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

- Affordable Housing (2022)
- Biodiversity and Development (2018)
- Design in the Landscape
- Minerals Safeguarding (2018)
- Model Design Guide for Wales
- Parking Standards (2019)
- Planning Obligations (2018)
- Public Art in New Development (2018)
- Renewable Energy (2019)
- Residential and Householder Development (2018)
- Sustainable Development – A Developer’s Guide
- Travel Plan (2018)
- Trees, Woodlands, Hedgerows and Development (2018)

Other relevant evidence or policy guidance:

- Manual for Streets (Welsh Assembly Government, DCLG and DfT – March 2007)
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management
- Welsh Office Circular 11/99 – Environmental Impact Assessment
- Welsh Office Circular 13/97 – Planning Obligations
- The Planning (Listed Buildings and Conservation Areas) Act (1990)

Section 66 of the Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Equality Act 2010

The Equality Act 2010 identifies a number of ‘protected characteristics’, namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council’s duty under the above Act has been given due consideration in the preparation of this report.

Well-being of Future Generations (Wales) Act 2015

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

Issues

This is a major EIA application that proposes the development of a predominantly brownfield site for residential development for a maximum of 228 dwellings and the provision of a replacement bridge over the River Ely and realignment of the B2673 Leckwith Road.

Having regard to the key issues identified in Schedule 3 of the 2017 EIA Regulations, an Environmental Impact Assessment has been submitted in support of this application, owing to the characteristics of the development and location of the site.

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

- Principle of development
- Highway matters
- Loss of employment land
- Design & Visual Impact
- Impact upon amenity of neighbouring occupiers
- Trees
- Landscape
- Ecology
- Flood risk and drainage
- Historic environment
- Noise & air quality
- Contaminated land
- Planning obligations and viability

Principle of Development

Housing Development

The proposals fall to the eastern edge of the Vale of Glamorgan administrative area and outside of any settlement boundary identified within the adopted Local Development Plan. Notwithstanding this, it falls in close proximity to the edge of the city of Cardiff. Noting this and the location of the application site beyond the settlement boundary, the site subject of this application falls within the countryside.

LDP Policy MD1 (Location of New Development) requires that new development on unallocated sites should: (inter alia) have no unacceptable impact on the countryside; benefit from existing infrastructure provision or where necessary make provision for new infrastructure without any unacceptable effect on the natural or built environment; where possible promote sustainable construction and make beneficial use of previously developed land; have no unacceptable impact on the best and most versatile agricultural land.

Part of the site comprises of a number of buildings of varying form and large areas of hardstanding, and evidently therefore comprises previously developed land. The site does not have a particularly strong visual relationship with development in Cardiff, although it would be viewed in association with a number of substantial urban features including the

elevated A4232. It is also located on an existing bus route and close proximity to a number of services within Cardiff, including the retail facilities within the Leckwith Retail Park.

Noting this, it is considered that although the proposals would not reinforce the role and function of identified settlements and the settlement hierarchy within the Vale of Glamorgan administrative boundaries, the development would however relate to existing built form in Cardiff, being in a sustainable location with sustainable connections to Cardiff, utilising a significant proportion of brownfield site. To this end, it is considered that although the proposals would not strictly accord with the provisions of Policy MD1 in terms of its location to settlements within the Vale of Glamorgan, would still accord with the wider aims of national planning policy in that the redevelopment of the site, which is in part brownfield, for housing where its connectivity and relationship to Cardiff would secure accessibility in a way which supports sustainable development, increases physical activity, improves health and helps to tackle the causes of climate change.

Furthermore members are advised that, in essence, the residential development of the site, would act as 'facilitating development' for the provision of a replacement road, viaduct and bridge, a key piece of highways infrastructure, that would potentially have to be funded by alternative means, and in the absence of such development, likely by the public purse, as discussed in further detail below, including correspondence from the Council's Highways and Engineering Operational Manager.

Replacement road and bridge

As noted above, the full element of the planning application relates principally to the realignment of the existing B4267 (Leckwith Road) and the construction of the new road and bridge.

The LDP identifies the B4267 as part of the strategic highway network within the LDP Strategy for the Vale of Glamorgan within the Plan Period. This is shown on the extract of Figure 2 (page 39) of the LDP as below:



— Strategic Highway Network

Policy SP7 'Transportation' states that 'sustainable transport improvements that serve the economic, social and environmental needs of the Vale of Glamorgan and promote the objectives of the South East Wales Regional Transport Plan and the Local Transport Plan will be favoured.'

The provision of a replacement bridge and realigned road do not form one of the key priorities identified within this policy or the wider LDP, although it does state that 'All new developments that have a direct impact on the strategic transportation infrastructure will be required to deliver appropriate improvements to the network'.

Criterion 9 also indicates that bus priority measures on Leckwith Road between Llandough and Cardiff as a key priority.

The supporting text to this Policy states:

5.81 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, with particular emphasis on providing improvements in access to Barry, the Airport and St. Athan from the M4. 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.

Policy MG16 'Transport Proposals' identifies a number of schemes for highway and sustainable transport to be progressed through the Local Development Plan, although again works identified within the scope of this application are not explicitly referenced.

Policy MD1 (Location of New Development) states that 'new development on unallocated sites should amongst other things 'benefit from existing infrastructure provision or where necessary make provision for new infrastructure without any unacceptable effect on the natural or built environment.'

Although not explicitly referenced within one of the aforementioned policies within the LDP, it has however become apparent, following survey work that the viaduct supporting the existing B4267, is identified and agreed to be in a poor state of repair with significant structural issues. In the absence of significant repair or replacement of the bridge, it is highly likely that the route would need to be closed or limited in terms of weight and in turn would close or significantly disrupt the flow of traffic for all highway users on this major arterial route into and out of the Vale of Glamorgan. The proposals therefore seek to provide a replacement road on an alternative alignment to allow the construction of a replacement road and bridge through the site, without need for the closure of the existing bridge.

The application provides a detailed report stating that the existing viaduct is structurally deficient, a matter that has been verified and acknowledged by the Council's Highways section.

The development would firstly make the route more fundamentally safe and user friendly and would allow for the strategic highway network and one of the principal connections with the City of Cardiff to remain open. Although there is no explicit policy position detailing that these works are acceptable, the thrust of the above policies and strategy within the LDP, clearly identify that works to maintain and improve the strategic highway network which will incorporate sustainable transport measures and associated infrastructure should be given significant weight in the determination of the application. The proposals would provide substantial benefits through the replacement of an important piece of highways infrastructure, and this therefore weighs heavily in favour of the proposals.

Following consultation with the Council's Operational Manager for Engineering they have advised of their support for the proposed highways works as detailed in full below:

The existing Leckwith Viaduct and River Bridge have been subject to a monitoring regime over the last 15 years following detailed inspection and structural assessment which proved them to be in poor condition and structurally unable to carry all possible traffic loading. Accordingly, a 7.5 tonne weight limit was imposed to protect the structures from damage associated with highway loading and they have been inspected at regular intervals to monitor their condition.

The B4267 route which crosses the Leckwith Viaduct and River Bridge represents a key highway and traffic link between Cardiff and the Vale which is used by many motorists as well as commercial vehicles and bus / coach services on a daily basis and it is essential that this highway link is maintained in a safe and robust condition and future improvements are made to ensure that it is suitable and fit for purpose in the future.

The current condition of the structures is such that remedial works to their reinforced concrete fabric would be prohibitively expensive and would not necessarily enable the weight restriction to be removed. Therefore, replacement is likely to be the most cost-effective option to follow in the future. The structures have recently been re-inspected and are currently undergoing a structural re-assessment to re-establish their safe load carrying capacity and for what length of time this capacity would apply.

The proposed development at the Leckwith Quays which includes the replacement of the existing Leckwith Viaduct and River Bridge structures represents a significant benefit to the Vale by removing the existing liability associated with the existing structures and will provide much needed durable new infrastructure essential to ensure that the B4267 road link is maintained and enhanced to meet the future transport needs of the Vale and the wider Cardiff City Region.

The new, replacement structure over the River Ely will be designed and built to all current Highways Agency and Welsh Government standards and, with no weight restrictions, will enable its use by all traffic for the next 120 years, continuing to provide an important link between the Vale of Glamorgan and Cardiff.

The new road alignment will be constructed on embankment to reduce the length of any new structure to the length required to cross the River Ely thereby further reducing the council's future liability by limiting the length of any new structure required. The new road will also be constructed to all current Highways Agency and Welsh Government standards to meet necessary and appropriate safety standards and traffic volumes.

The council's highways and engineering team has worked closely with the developer to ensure that the specification and design of the new road and bridge structure meet the future needs of the council.

Any such benefits are to be weighed against any harm arising from the development, in the above policy context, and the issues associated with each of these points are considered below. A balance of any benefits and/or harm is set out at the end of the report.

Highways alignment/geometry

As aforementioned, the proposals seek to replace the existing viaduct that provides a main arterial route that connects the Vale of Glamorgan with Cardiff.

Vehicular access to the residential element site is proposed from the new bridge/road alignment, via a new signalised junction. A significant amount of engineering work will be required to provide the access and access road into the site, including the raising of ground levels and banking in order to achieve appropriate gradients.

The Council's Highways Development section have advised that the development would adhere to the design standards in the Design Manual for Roads and Bridges (DMRB) which will ensure a safer and more attractive route for all traffic, including HGVs. This is considered to also represent a significant benefit to the development, given the identified issues with the existing viaduct.

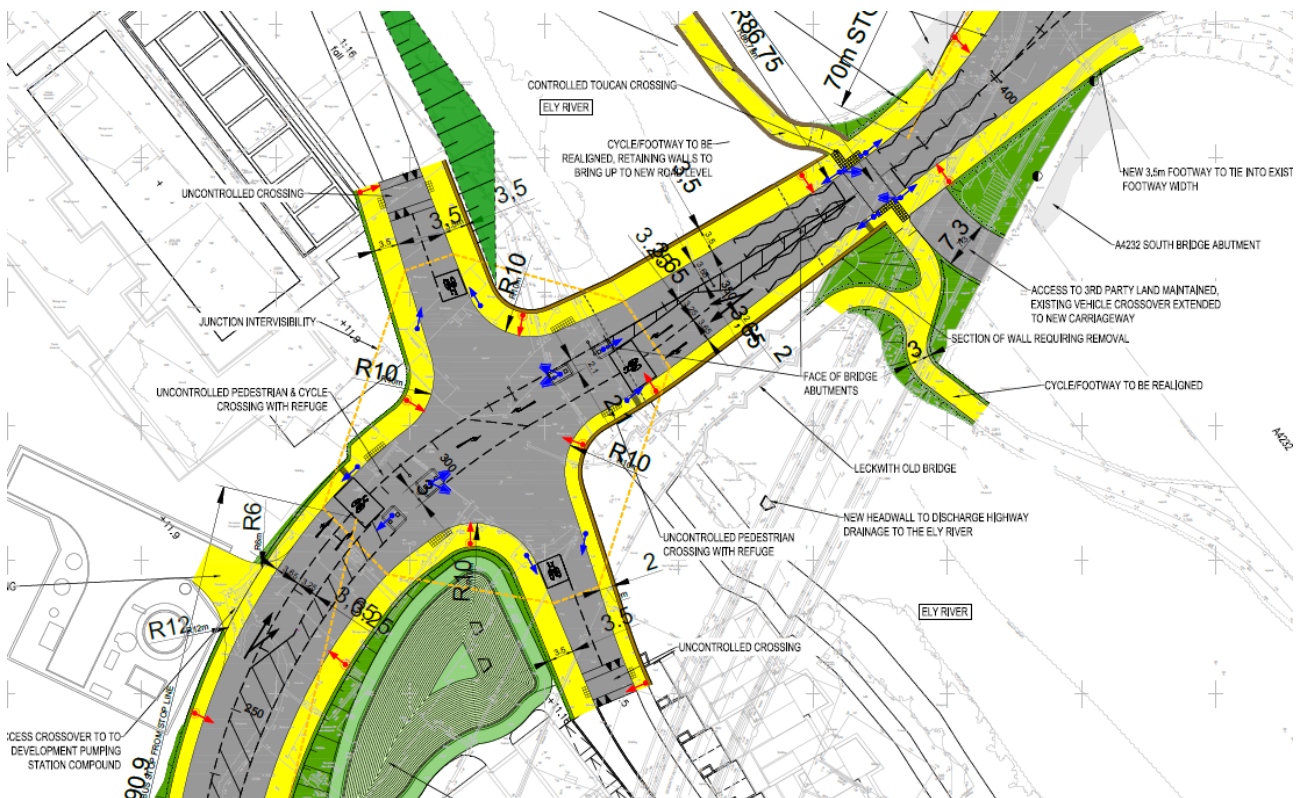
The engineering details of the proposed replacement bridge have also been considered by the structures team within the Highway Development section of the Council. Therefore, subject to the engineering detail of the road being approved, it is considered that it would function safely and positively impact upon highway safety within the highway network.

The Highway Authority have confirmed their satisfaction that the proposals are acceptable in terms of their geometry, subject to conditions attached to any planning permission and further technical approval being sought through the necessary highways agreements. **Conditions 12, 13, 19, 20, 21, 22, 27, 28, 48 and 49** have been proposed to address the points raised by the Highway Development Department.

Cycling, Pedestrians and Public Transport

Policy MD2 (Design of New Development) of the Local Development Plan requires that development proposals should provide a safe and accessible environment for all users, giving priority to pedestrians, cyclists and public transport users and have no unacceptable impact on highway safety nor cause or exacerbate existing traffic congestion to an unacceptable degree.

Currently there are existing footways to both sides of Leckwith Hill and over the viaduct with associated safety barriers. The development would result in enhanced footway/cycleway provision with a 3.5m wide shared facility on one side of the road along its length, switching sides of the carriageway adjacent to the entrance points to the respective entrance points to the northern/southern elements of the outline residential development as shown on the plan below:



Although the proposals would not provide segregated footway/cycleways, the proposals would tie in with existing provision in the area in an urban/rural fringe location and represent a significant betterment in comparison with the existing situation. The proposed arrangements would also tie in with Ely trail cycleway and facilitate pedestrian and cycle access (and the removal of vehicular traffic) over the Old Leckwith Bridge to the Cardiff side of the River Ely, in addition to the active travel routes into the site. A controlled toucan crossing across the revised road design also represents a significant improvement for users of the trail from the existing uncontrolled arrangement.



Old Leckwith Bridge

It is considered that this arrangement would result in the route being significantly more attractive to cyclists, including for the prospective future occupiers of the development, and this would encourage cycle trips as an alternative to the car. Whilst representations have raised issue with the lack of underpass for the Ely Trail, it is noted that any such feature would be within the Cardiff administrative area. Notwithstanding this, following discussion with the Council's Highway Development section there was considered to be concern in terms of cost, design and levels with regard to provision of such a feature. This is considered to be a further benefit to the scheme. Pedestrian facilities would also be improved, relative to the existing situation. This would provide improved and safer pedestrian facilities along a significant length of the road and would provide for better pedestrian access, including to those services contained within Cardiff. Concerns with regard to the placement of signage and potential interference with pedestrian cycle routes would be a matter that would be further considered within any future highways technical approval.

The provision of a dedicated bus lane, bus stops or other facilities on the realigned road is not considered feasible owing to the geometry of the road and lack of suitable locations along the site frontage in addition to the constrained position of the realigned route adjacent to the listed bridge. There are 95 and 95A bus services that currently use the B4267 providing routes between Heath Hospital & Barry and Cardiff & Penarth respectively, with the nearest bus stop (Hadfield Road) being circa 400 metres away. It is also noted that the Ninian Park railway station is circa 1 mile to the north. The development would not provide additional bus stops but would create a safer, quicker and more attractive route, with future users of the site having access to bus services within a suitable walking distance.

It is considered that the development would provide much improved facilities and a safer environment for cycle and pedestrian movements, in addition to future proofing for buses.

Residential development (Highways)

The proposed residential development will be accessed off the amended highway alignment and new junction allowing separate access to each of the development parcels to the north and southern extent of the road. The position of these access points is shown below:



Following review of the access positions and their associated geometry the Council's Highways Development Section have confirmed that they are satisfied with their position, in terms of highway and pedestrian safety and that they are designed in accordance with suitable standards including the Design Manual for Roads and Bridges (DMRB).

Chapter 4 of the supporting Environmental Statement details the likely transport effects arising from the construction and operation of the proposals and is supported by a Transport Assessment and an Outline Travel Plan. These elements principally focus upon

the impacts of the proposed development on the local highway network, including cumulative effects with other developments within both Cardiff Council and the Vale of Glamorgan (although no such schemes were identified). This identifies that during the construction phase the effects of the proposed development would be medium term, minor adverse not significant, whilst during the operational phase would be long term but limited to minor adverse or no change. It must be acknowledged that the existing use of the site generates a number of trips, albeit of a different nature, with more commercial vehicles and lower volume to that of the proposed residential use. Following the review of the Transport Assessment and subsequent addendum, by the Highways Department and their appointed consultant, it is agreed that no significant highways impacts are expected from the introduction of a residential development of the size proposed.

The movement hierarchy parameter plan details the road layout shown as part of the indicative layout:



Owing to the general linear form of the site, the development would largely be accessed off single spine roads running to each of the northern and southern plateaus. The proposals do however indicate that a degree of separate pedestrian/cycle infrastructure could be accommodated within the development with connections to existing off-site provision.

It is noted that the Council's Highway Development section have provided comments in this regard during the course of the consideration of the application and some minor changes have been incorporated into the indicative masterplan. However, no objections are maintained by the Council's Highway Development team and fundamentally the internal layout of the residential development (inclusive of the provision of parking and cycle parking facilities) is a reserved matter that will be considered under any future reserved matters applications. Such applications would also afford opportunity to consider the scheme in terms of prioritising pedestrian and cycle movements for users within any future layout. It is however, acknowledged that development of the southernmost development parcel would need to be carefully considered to ensure suitable deflection or alternative measures are undertaken to ensure that vehicular speeds are kept to a suitable level for the form of development proposed and any future submissions would need to suitably demonstrate that the highways layout achieves a suitable and safe layout.

The site is considered to be a favourable location for walking and cycling to a number of facilities within Cardiff, particularly those within the Leckwith retail park circa 300 metres away, active travel facilities immediately adjacent to the site, and access to bus and train services from the B4267 within Cardiff. As such the site is considered to be within a sustainable location that would mean occupiers of the dwellings would not be fundamentally reliant on the car.

Loss of employment land

Although not allocated as a designated employment site within the Vale of Glamorgan Local Development Plan, it is noted however, that access to the existing site and uses within, are currently via the existing historic bridge.

It is evident that the continued use of this bridge which is both a Grade II* listed building and Scheduled Ancient Monument and associated damage caused particularly by commercial vehicles, represents a significant constraint to providing a usable, safe and viable long term access to the commercial uses within the site.

Policy MD16 (Protection of Existing Employment Sites and Premises) seeks to ensure that at existing employment sites and premises proposals for non B1, B2 and B8 employment uses will only be permitted where:

1. The proposal is for ancillary or sui generis uses that would not singularly or cumulatively lead to a material change in the nature of the employment site; or
2. The existing employment use has unacceptable adverse impacts on amenity or the environment; or
3. Land of equal or better quality is made available for employment uses elsewhere; or
4. It is demonstrated that the site or premises is no longer suitable or viable for employment purposes; and
5. The proposal would not prejudice existing or neighbouring employment uses, have an unacceptable impact on amenity or the environment and would not lead to a material change in the nature of the employment site



The brownfield part of the site has historically had a varied range of commercial uses including vehicle recovery, gas storage and concrete product manufacturing. As such these uses have principally been based more around the site being used for open storage, albeit with a number of buildings on the site, but is materially different to a business park or industrial estate where such sites provide serviced commercial units.



View towards northern section of site from viaduct



View towards northern section of site from viaduct

The agent has confirmed that currently there is very little activity at the site and most tenants have left and haven't been replaced and each tenant lease can be ended with 28 days notice.

As such whilst the loss of the existing site for business use is regrettable, given the nature of the uses at the site, due to access constraints, it is the view of officers that the site is no longer suitable or viable for employment purposes going forward, therefore complying with Criterion 4 of Policy MD16. It is also a material consideration that the removal of commercial vehicles from the historic bridge will result in the future safeguarding of this historic asset.

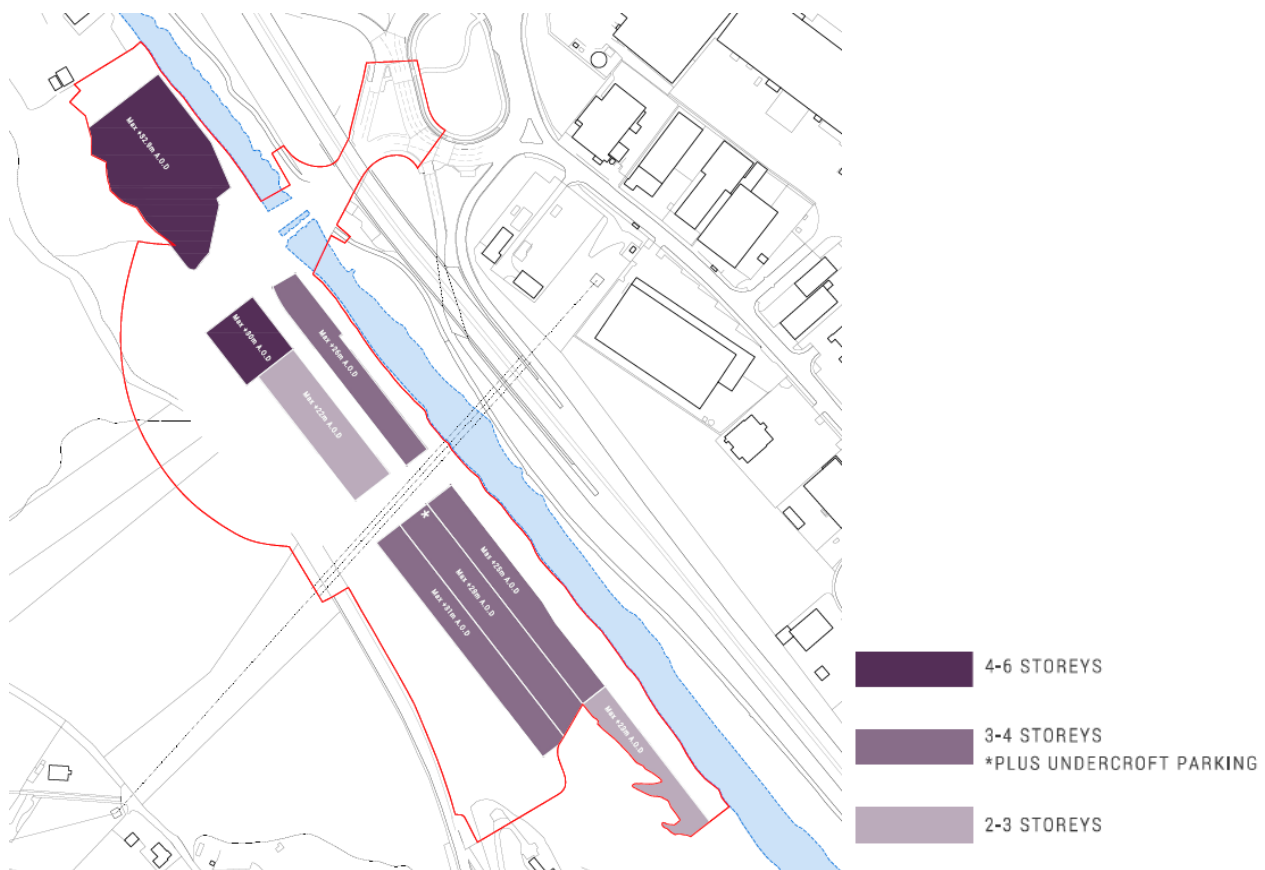
Design, Landscape & Visual Impact

Policy MD2 (Design of New Development) of the Local Development Plan requires that development proposals should 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 and respond appropriately to the local context and character of neighbouring buildings and uses in terms of use, type, form, scale, mix, and density.

Due to the topography of the site and to facilitate the road realignment, a relatively substantial degree of engineering works will be required to develop the site as described above, including the access from the residential elements onto the revised road alignment and to elevate the slab level (including by up to 1.3 metres within the northern plateau) in accordance with the recommendations of the submitted Flood Consequence Assessment.

The proposals will result in the removal of an existing viaduct, with a replacement road and bridge with associated engineering works on a revised alignment. Whilst noting the revised alignment, the removal of the existing highways infrastructure with new, would to some extent balance out any visual harm associated with the revised road arrangement. The elevational details indicate a bridge of a suitable design whilst the other submissions detail that the revised alignment would not require excessive engineering works. Subject to suitable tree planting (discussed in a later section of the report) it is considered that the works to provide the road itself would not give rise to any unacceptable visual impacts having regard to the visibility of the road and having regard to the degree of impact of the existing viaduct and road.

The residential development, however, falls on two relatively flat plateaus that would not require significant levelling or changes to facilitate the development of the site. The application has been supported by a scale parameter plan and indicative masterplan, that indicate a mixed form of development inclusive of flatted blocks of between 4-6 storeys in height to the north of the site and dwellinghouses of both 3-4 storeys and 2-3 storeys towards the southern end.



Although the site falls outside of any settlement identified within the Vale of Glamorgan LDP, it must be acknowledged that the site is visually contained by the significant escarpment, behind and viewed in the context of a number of significant buildings and other urbanising features, which border Cardiff inclusive of the existing road that is significantly elevated. In respect therefore of the visual impact of the residential development, whilst the submission is accompanied by indicative elevation details of buildings within the site, detailed design and appearance of the buildings is a reserved matter for consideration within a subsequent application. It is considered that the site is suitably located to accommodate a development of the identified scale parameters proposed. Full details of the design and form of each of these buildings would need to be carefully considered through the submission of detailed reserved matters applications. On the basis of the information provided it is considered that a policy compliant scheme to comply with the requirements of the Local Development Plan, including Policies MD2 and MD5 could be achieved and this would need to be carefully considered with any reserved matters submission.

Notwithstanding the above, the application site (with the exception of the works that cross the River Ely) falls within the Cwrt-yr-Ala Basin Special Landscape Area (SLA), adjacent to a significant wooded escarpment that forms a distinct feature in close proximity to the edge of the urban area of Cardiff.

Policy MG17 'Special Landscape Areas' of the LDP identifies areas protected and states that within the special landscape areas identified, *'development proposals will be permitted where it is demonstrated they would cause no unacceptable harm to the important landscape character of the area.'*

The background paper 'Designation of Special Landscape Areas' for the currently adopted LDP Cwrt-Yr-Ala Basin SLA, identifies that the SLA 'is surrounded on three sides by large

conurbation representing a significant threat through housing and infrastructure development.' The majority of the SLA is focussed on the Cwrt-yr-ala valley although with regard to the area subject of this the background paper states the following:

To the north and east a scarp slope acts as a western edge to Cardiff basin. The slope is dominated by broadleaf and mixed woodland giving way to riverside vegetation and limited commercial development. The exposed hillside rises steeply to overlook the flat land of Cardiff Bay and City. There are detractive views to Leckwith Industrial Estate and noise from the A48. The natural landscape has been significantly altered by urban expansion and, despite the SLA area itself having few settlements, it feels very settled due to the proximity to Cardiff.'

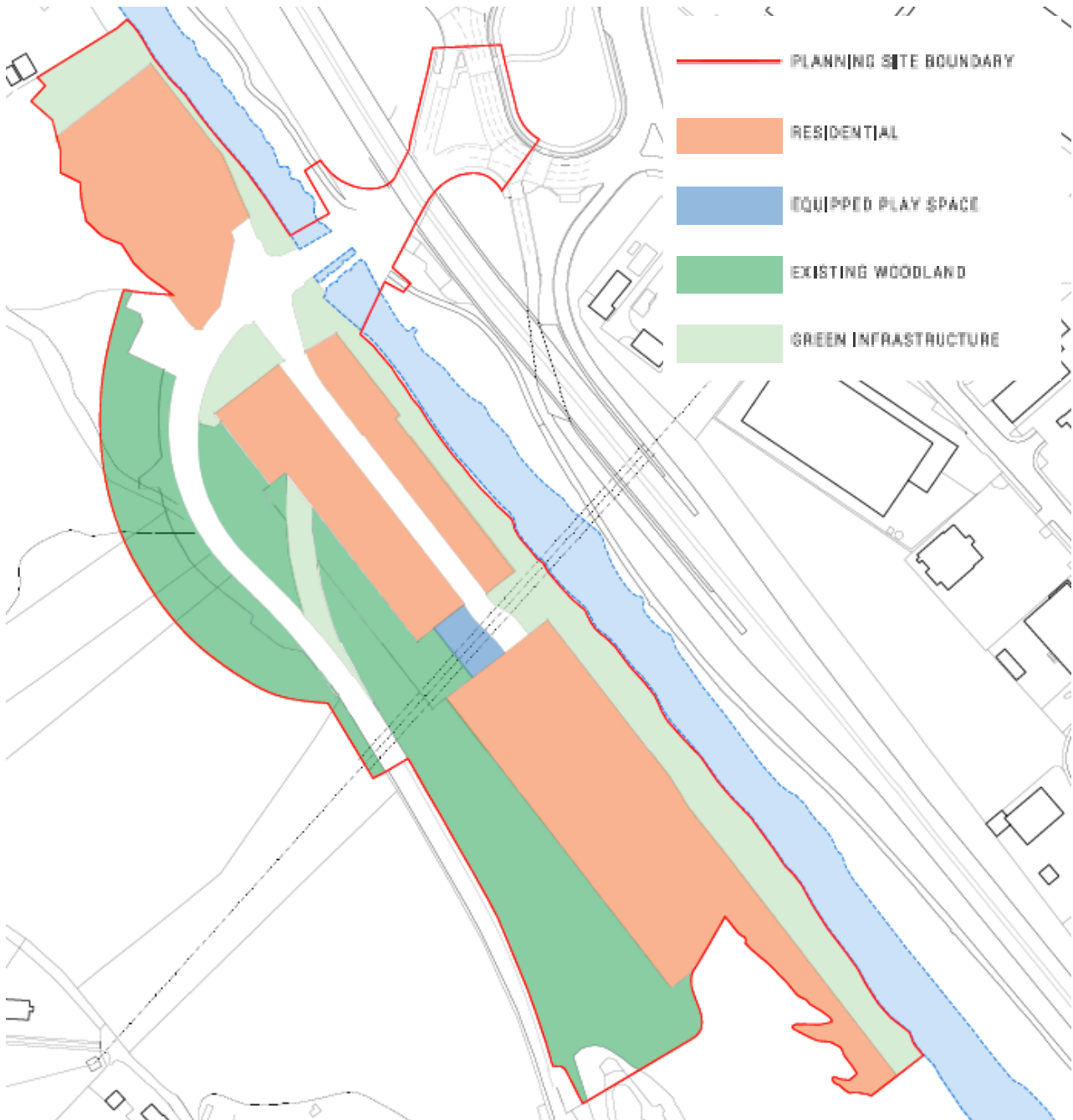
The proposals as originally submitted were supported by a Landscape and Visual Impact Assessment (LVIA) prepared by Novell Tullett dated November 2019, with the impacts further considered within Chapter 6 of the accompanying ES and subsequent addendum. This assessment, as revised following officer concerns, provided detail of the potential landscape impacts from 10 landscape receptors, that detail that as a result of the construction phase, 6 were considered to have a moderate to major adverse impact, predominantly owing to the loss of trees as a result of the development, as discussed at length above. However, the submissions detail that once built and operational, predicted impacts from receptors including the SLA, adjacent SINC's and the Old Leckwith Bridge were to be no significantly adverse impacts, with six being beneficial owing to the potential for a high quality landscaping scheme, increased links through the site between woodland and the river corridor and improvement of setting of listed bridge through the removal of vehicular traffic across its span.

The submissions also identified seven viewpoint receptors, four of which were indicated as having moderately adverse significant adverse impacts during the construction phase. three of which were considered to be moderately adverse, which was considered significant when the development was operational, including those identified from those closest to the site from the Old Leckwith Bridge and Ely Trail, owing in part to proximity of the site to the walking trail and the increased height and lessened views toward the escarpment. These viewpoints are however considered to be relatively localised with the impacts arising from the increased height of built form, albeit of likely better quality subject to reserved matters consent when compared to the existing development at the site.

With regard to the SLA, this is a strategic landscape designation and one that considers wider landscape impacts. The part of the proposal which extends into the SLA will be viewed in the context of the existing development within Cardiff, inclusive of the A4232 and large commercial buildings as acknowledged within the relevant background paper, as aforementioned. The nature of existing development at the site, is not a positive contributor to the fundamental landscape character of the SLA and whilst the proposals would certainly increase the extent and height of built form within the site, this would largely be visually contained by the escarpment and viewed within an already developed context. The loss of vegetation, as discussed within the previous part of this report, is certainly regrettable although noting the extent of replacement planting and the indicative landscaping strategy proposed, that will increase the vegetative cover within the site, it is considered that some of the localised visual and landscape harm would likely be mitigated to a significant degree. To this end, it is considered that the proposals, inclusive of both the full element for the road, and the outline proposals for residential development, will not fundamentally or cause a significantly harmful impact upon the wider landscape value of the SLA. To this end, for the purpose of Policy MG17 of the LDP.

Density & Layout

As noted above, the application is in outline with all matters except access reserved and consequently, the only information relating to an internal layout are the indicative master plan and parameter plans (including the storey height plan noted above). The land use plan is shown below:



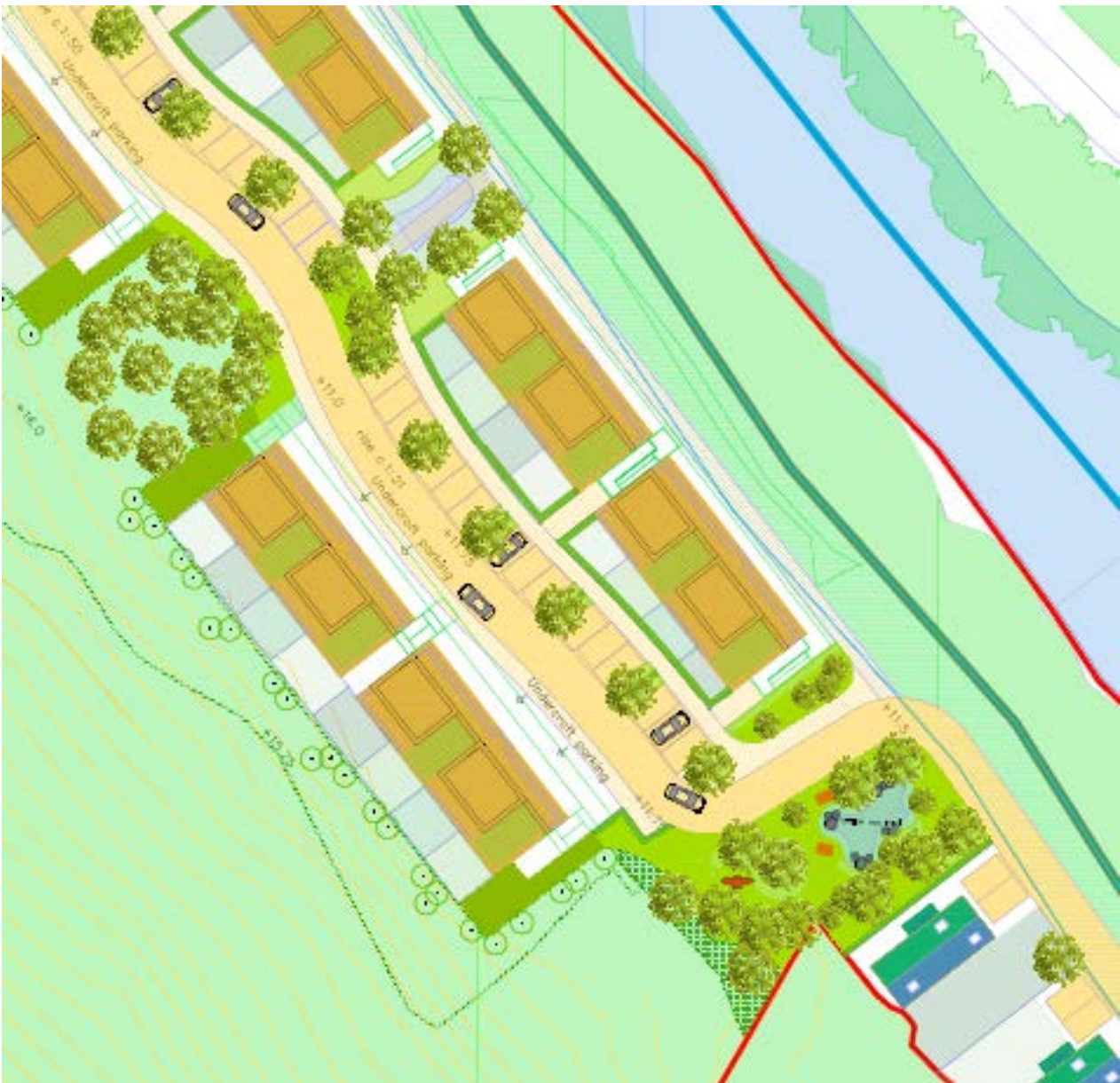
The proposed land use plan provides a high level assessment of the land uses within the residential element of the proposals with centralised Public Open Space ('POS') provision and green infrastructure to the river edge. This has been further interpreted within the indicative masterplan shown below:



The proposals show flatted blocks to the northern end of the site with greater storey heights (as shown on the height parameter plan attached above), with a mix of flatted development to the northern end of the southern plateau, and a mix of terraced, detached and semi-detached units within the southern end of the southern plateau. The parameter plans and indicative layouts are not intended to be prescriptive, but do demonstrate that the quantum of development, can in principle, be laid out in such a way to provide an appropriate form of development, providing amenity provision, parking, open space and ecological mitigation within the confines of the site.

Although little in the way of elevational detail has been provided, noting the context of the site, it is considered that the site could accommodate a varied form of development (as evidenced within the masterplan), and it is not considered necessary to be overly prescriptive with a detailed design code or similar at this point. Layout and design are matters reserved for subsequent applications, and officers are confident that an appropriate high quality form of development can be achieved within the confines of the site, subject to necessary scrutiny with any reserved matters submission(s).

The application, as amended, is also supported by a landscape strategy indicates that the proposals would provide landscaping around identified 'green fingers' running through the site in 3 locations, as shown indicatively on the plan extract for the south-eastern part of the site below:



Whilst full details of landscaping and layout are matters reserved for consideration under subsequent applications, it is considered that the landscape strategy demonstrates that the future development of the site can be designed in a manner to provide a suitable scheme of landscaping, with scope for biodiversity connections running through the site. When considering biodiversity and climate change implications of the development, the indicated layout allows any reserved matters proposal to incorporate a significant amount of tree cover as possible/practicable.

Although not within the defined settlement boundary, LDP Policy MD6 (Housing Densities) indicates that residential development proposals within the key service centre and primary settlements will be permitted where the net residential density is a minimum of 30 dwellings per hectare. The proposal is for up to 228 dwellings on site area of circa 5 ha (not inclusive of the road), and the density on site would be above the minimum 30d.p.h. that is required within key settlements, which is considered appropriate given its context adjacent to the built form within the Cardiff administrative area. Accordingly, the proposal is considered acceptable in respect of its density.

Amenity Space

The Householder and Residential Development SPG requires between 12.5-20sq.m of amenity space per person for flatted developments. These are minimum standards and the SPG notes that 1-2 bed flats would typically be treated as having a minimum of 2 persons.

As can be seen on the indicative layouts, some provision has been made for amenity space for residents. These indicate that an acceptable amount of amenity space is to be provided across most of the site, inclusive of shared areas, roof terraces, balconies and for a number of dwellings private garden areas. However, whilst there is some concern about the amount and quality of amenity space that would be available for some residents of the proposed development (on the basis of the indicative masterplan), members are advised that the internal layout is a reserved matter. Whilst the provision would likely need to be amended in terms of its position, layout and amount in some instances, to be found acceptable, there is sufficient room within the confines of the site to provide an acceptable amenity space whilst still accommodating the number of units being applied for, to serve at least the basic needs of prospective occupiers in the arrangement at this scale and form of development. This would need to be reflected in detailed layout plans, to include for practical needs such as bin and cycle storage.

Impact upon amenity of neighbouring and existing occupiers

It is noted that residential units (2) within the site would be lost as a result of the development and these properties have been served notice by the applicant and notified by the Vale of Glamorgan Council. Given the proposals would result in the comprehensive redevelopment of the entirety of the site, any existing residential use would cease and the units be removed and are not shown to be retained within the development. The removal of the units to facilitate development would mean that the proposals would not unacceptably impact upon any existing development at the site.

The nearest neighbouring property to the site is Hillside Cottage/Chalet which is located adjacent to the southern end of the development, in an elevated position. The significant highway works are set a substantial distance away from the property (circa 300 metres to the west) and as such with the exception of some limited construction impacts would be unlikely to cause any unacceptable detriment, with any such detriment controlled by way of a robust CEMP to be required by way of condition attached to any consent granted (condition 27 refers). Furthermore, although the boundary with residential development would be relatively close to the dwelling, it is noted that the current layout is indicative in its form and would be subject of further review and at a lower level. As such it is not considered in principle that there are likely to be any unacceptable impacts arising from the residential use of the site.

Other nearby properties including those on Woodland Road are set a significant distance away from the development site and as such would be unlikely to be unacceptably impacted by the development, particularly with the requirement for a robust CEMP as noted above. Furthermore although concern is noted with regard to the extent of notification of the development, the LPA has fulfilled its statutory obligations in this regard with immediately neighbouring properties having been notified, site notices erected and the application advertised appropriately in the press.

Noting all of the above, it is considered that the proposals in principle would not give rise to unacceptable detriment to the amenity of neighbouring residential occupiers. Full consideration of specific impacts can only be undertaken at reserved matters stage.

Trees

Policy MD2 (Design of New Development) of the Local Development Plan requires that development proposals should incorporate sensitive landscaping, including the retention and enhancement where appropriate of existing landscape features and biodiversity interests.

The updated tree survey provides a detailed assessment of the trees across the development site and categorises the trees in terms of their age, condition and species and provides an assessment of their quality ranging from Category A 'High Quality' to C 'Low Quality' in addition to Category U 'those that cannot realistically be retained in context of current use for longer than 10 years.' They are mainly identified as a category C and U, although there are 7 no individual trees and 4 groups of trees that are identified as either category A or B.

The survey is also accompanied by an Arboricultural Impact Assessment that details the trees to be lost to the development that states that the site is dominated by mature woodland containing mostly Ash Trees infected with Ash Dieback Disease' with infected trees likely to die within 'the next five years and many trees now require removal on public safety grounds.'

It goes further to state that natural regeneration of the woodland would be anticipated within 10-15 years of the trees being lost. A high number of trees are therefore identified for removal for arboricultural reasons, principally ash dieback and elms infected with Dutch Elm Disease (22 individual trees, 16 groups), with the AIA noting that 'all category U trees require removal irrespective of any development proposals and therefore the loss of these trees should not be a material consideration'.

A number of trees are identified however as being lost to facilitate the development inclusive of 10 groups of trees, 12 partial loss of groups of trees and 5 individual trees. The submitted AIA indicates that 167 individual trees and circa 211 trees within identified groups (based upon 1,100 trees per ha) will be removed to accommodate the proposed road and residential development on the plateaus. Of those trees to be removed these are 22 groups to be affected with partial or complete removal, 19 of which are identified as category C, 2 x category B for partial removal and the complete removal of a category A group of beech (G72). 2 no. category A trees would be removed and 1 no category B.

Although the number of trees to be lost is evidently substantial, the vast majority identified for removal are those of limited quality or life expectancy. It is however acknowledged that cumulatively, the tree cover currently evident contributes significantly to the verdant character of the escarpment and to the overall vitality of the adjacent SINC.

The vast majority of the trees proposed to be removed would be associated with the realignment of the road, as shown on the plan extract below from the AIA:

- Trees to be Removed for Arboricultural Reasons ●
- Trees to be Removed for Development Reasons ●
- Category A Trees to be Retained ●
- Category B Trees to be Retained ●
- Category C Trees to be Retained ●



Although it is acknowledged that such loss is regrettable, the absence of the works could lead to the loss of this arterial route into the Vale of Glamorgan, noting the aforementioned issues with regard to the current structural condition of the bridge. Where tree loss occurs as a result of development, the Council's adopted Trees, Woodlands, Hedgerows and Development SPG does seek 2:1 for replacements for non-protected trees **wherever possible** (officer emphasis).

The SPG (9.1.3) indicates that each case must be assessed on a case by case basis and indicates that this requirement need not be slavishly adhered to. In this instance, significant weight must be given to the current health and status of the trees, noting a significant majority are dead or diseased or identified as being of poor quality or unsuitable for retention. To this end, coupled with significant weight that must be afforded to the critical need for the provision of a piece of critical infrastructure in the form of the realigned road and replacement bridge, consideration must be given to whether suitable mitigation can be achieved to safeguard local amenity and provide suitable ecological and sustainability benefits.

To this end, the application is supported by a detailed landscape strategy and details of tree planting following extensive negotiation with a view of achieving replacement within the confines of the site of circa 2:1 to meet the requirements of the Trees, Woodlands, Hedgerows and Development SPG. However, it is acknowledged that noting the density and constraints of the residential development site, the indicative landscaping strategy based upon the submitted masterplan demonstrates that a 2:1 replacement within the confines of the application site would be inherently difficult to secure. Furthermore, whilst the SINC woodland would naturally regenerate and areas have been identified adjacent to the realigned road for replacement planting, it is evident that this still fall short of the required level, albeit would likely provide suitable mitigation for the visual impacts of the development.

As noted the revised road alignment, would account for the removal of the majority of trees that are identified to be removed, noting the issues and limited remaining lifespan of the existing viaduct, is a significant consideration that weighs heavily in favour of the application.

Following negotiation with the applicant and the Council's Countryside team, it is considered that an appropriate mechanism is available to mitigate any such loss by requiring a commuted sum for the provision of replacement trees within suitable sites available to the Council.

Indeed such an approach is advocated within the Trees, Woodlands, Hedgerows and Development SPG. This states at paragraph 9.1.4. that *'the Council will normally require replacement planting to be accommodated within the boundary of the development site. However there may be instances where off-site replacement planting on public or other land in the control of the applicant will be considered and further information with regard to off-site planting.'* Whilst it is preferable that such planting occurs on neighbouring land available to the applicant, in this instance that such sites are not available.

Paragraph 9.1.5. of the SPG expands upon this and states *'under some circumstances off-site replacement planting may be acceptable and the Council will consider each situation individually. This approach is considered to be consistent with the Council's Tree Strategy and the LDP which seeks to increase overall tree coverage within the Vale of Glamorgan. All replacement planting will form part of the planning conditions or where necessary planning obligations (via a section 106 agreement) attached to the planning permission.'* It is acknowledged that paragraph 9.1.6. that such an arrangement should be considered as 'a last resort', however, it is considered that significant material considerations exist in this case. To this end, as part of the legal agreement attached to any consent given the requirement for a commuted sum of £60,000 to ensure tree planting of in excess of 2:1 shall be secured through both on and off-site mitigation, which would equate to the planting of in excess of 200 trees (circa 0.18 ha of woodland) on suitable receptor sites to be identified by the Council's Countryside Team. This would be broadly commensurate with the trees in groups/woodland identified within the submitted AIA (including those of limited value/poor health) and would assist in balancing their loss and maintaining suitable tree cover throughout the Vale of Glamorgan.

Ecology

Policy MD9 (Promoting Biodiversity) of the Local Development Plan requires development proposals to conserve and where appropriate enhance biodiversity interests unless it can be demonstrated that the need for the development clearly outweighs the biodiversity

value of the site and the impacts of the development can be satisfactorily mitigated and acceptably managed through appropriate future management regimes.

Some of the works, including a number of trees to be removed fall within the Factory Wood Site of Importance for Nature Conservation (SINC), albeit it is noted that this SINC extends for a significant distance beyond the confines of the site. The River Ely, running along the boundary of the site is also recognised as a SINC. The Cym Cufdin, Leckwith Site of Special Scientific Interest (SSSI) lies just under 1km to the south-east of the site, downstream along the River Ely.

As such policy MG21 'Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species' would be of relevance in determination of the application. This is a criteria based policy that states that proposals likely to have an adverse impact upon such areas will only be permitted where it can be demonstrated that:

1. The need for the development clearly outweighs the nature conservation value of the site;
2. Adverse impacts on nature conservation... can be avoided;
3. Appropriate and proportionate mitigation and compensation measures can be provided; and
4. The development conserves and where possible enhances biodiversity interests.

The application has been supported by survey work conducted by David Clement Ecology, with the most recent Ecological Assessment, dated November 2022. The survey identifies that the great majority of the habitats within the site comprise either bare ground, hardstandings or cleared and levelled ground supporting secondary ruderal vegetation along the north-eastern fringe of the site where it abuts the river' but also notes the presence of buildings and neglected garden areas that includes a large artificial pond. The River Ely, is noted as a major wildlife corridor with numerous species noted along its length including bats, otter, kingfisher and barn owl.

The supporting survey work has found some of the buildings within the site support roosting bats, with a suggestion that a 'comparatively low number of pipistrelle bats and brown long eared bats' roosting with the buildings identified as being of High Local Value. However, no evidence of roosting bats was found within the trees, including those to be lost. Surveys of the pond on site have found smooth and palmate newts and indicated the likely absence of great crested newts, whilst dormouse surveys of the woodlands immediately adjacent to the site found no evidence of dormouse or within adjacent suitable habitats. Evidence of the use of the river by otters was also found, although the survey suggests that there is no evidence to suggest an otter resting place or natal holt is evident within the site boundary.

The applicant's ecologist goes on to indicate that the some of the semi-natural habitats within the site were also considered to be of SINC quality, potentially of district value. Japanese knotweed was also noted as being present. Whilst noting the ecological constraints, the survey states that 'provided that adequate resources are made available for the mitigation and compensation of any adverse impacts, it is not currently considered that redevelopment of the site is unacceptably constrained by biodiversity and wildlife considerations.'

The assessment goes on to make a number of recommendations with regard to mitigation and compensation measures which include the following:

- Bat Conservation Plan – to include but not be limited to measures such as updated ground surveys of trees; demolition of buildings within the site during winter months; the provision of a suitably designed bat house within the confines of the site/suitable bat box provision within woodland (both prior to demolition of any existing buildings within the site); suitable roosting opportunities within new buildings within the site
- Otter Conservation Plan – to include details of an otter ledge (or similar) beneath new bridge; undisturbed 5m vegetation strip adjacent to the river, including lack of access; consideration of lighting arrangements to prevent lightspill onto river corridor; provision of artificial holting sites
- Mitigation for nesting birds including timing of clearance of vegetation; provision of bird boxes throughout the site and woodland; kingfisher nesting site
- Reptile mitigation strategy
- Hedgehog friendly fencing to be used
- Wildlife pond to be created within the southern end of the site
- Suitable replacement of circa 378 trees to be lost, including use of native species
- Provision of green fingers to provide connectivity between woodland and river corridor, and other landscaping measures inclusive of buffer planting to woodland
- Suitable highway lighting scheme to minimise light spill to woodland and River
- Wildlife Protection Plans and a long term Biodiversity Management Plan

Throughout the course of the application there has been extensive consultation with both NRW and the Council's Ecologist with regard to the ecological issues at the site.

Most recent comments from NRW, indicate that a revised general arrangement drawing of the new bridge to the River Ely should be provided to demonstrate that a suitable otter ledge can be accommodated above the 1 in 100 year flood event. However, in the absence of such they note that conditions relating to the bridge's soffit level (8.73m AOD) and an Otter Conservation Plan, could be attached to any consent given.

In this regard, the applicant has provided, informally, details that demonstrate that such an otter ledge could reasonably be achieved on the Vale of Glamorgan side, noting the change in levels across the site allows for sufficient clearance above anticipated flood levels and below soffit at the Vale end of the bridge for the bearing inspection shelf. To the Cardiff side, it is indicatively shown that dry passage could be accommodated through the abutment. Although these details have not been agreed with NRW, it is nevertheless considered that this demonstrates that in principle, this matter can be dealt with through an appropriately worded otter conservation plan condition (Condition 41 refers) and to condition soffit level (condition 17 refers)

With regard to the Cym Cyfin SSSI, NRW detail that any development of the site should seek to restrict access from the development into the SSSI, as such they advise that any residential development of the site should be designed in a manner that seeks to restrict access into the woodland, inclusive of building design and/or a suitable form of enclosure, although advise that this should be secured at reserved matters stage. The indicative layout as amended, does not identify recreational access into the woodland, with buildings generally facing into the development site. Although these details are indicative, it is apparent that a suitable layout could be achieved, and this will need to be secured through any reserved matters submission to follow.

Following consultation with the Council's Ecologist, they acknowledge the findings of the ecological submissions and suggested mitigation and indicate that this should be brought together into a more logical framework to avoid confusion. Nevertheless, although they do not object to the scope of the proposed mitigation they also note that replacement trees should be of local provenance. In addition lighting should be carefully considered to minimise detriment to species that utilise the site and edges of the development should be designed to ensure restricted access from the development to sensitive neighbouring sites. To this end, it is considered that the mitigation identified is considered to be appropriate and suitable conditions will be attached to any consent granted (**Conditions 42 and 43** refer) in addition to further details with regard to mitigation for trees (as covered previously).

Bats, otters and their breeding sites and resting places are protected under the Conservation of Habitats and Species Regulations 2017 (as amended). It is acknowledged that the submissions detail that there is no evidence of otter holts found within the site, although it is considered appropriate to take a precautionary approach with regard to the regulations. Where bats and/or otters are present and a development proposal is likely to contravene the legal protection they are afforded, the development may only proceed under licence issued by Natural Resources Wales, having satisfied the three requirements set out in the legislation. A licence may only be authorised if:

- i. the development works to be authorised are for the purpose of preserving public health or 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.
- ii. There is no satisfactory alternative and
- iii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

Paragraph 6.3.7 of Technical Advice Note 5: Nature Conservation and Planning (TAN5) states that a Local Planning Authority should not grant planning permission without having satisfied itself that the proposed development either would not impact adversely on any bats on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

In light of the above requirements, the three tests that need to be applied to this planning application are:

In respect of test no 1, the proposal would have an overriding benefits in terms of providing much needed infrastructure, housing , in addition to a number of affordable housing units, in the wider public interest within the Vale of Glamorgan.

In order to satisfy test no 2, the failure to replace the viaduct could eventually result in the building being at risk of falling down. Any redevelopment of this brownfield site would likely result in the loss of any existing buildings on the site in any case.

With regard to test no 3, as stated above, NRW do not consider that the development is likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range, subject to identifying the approved plans and documents on the decision notice and suitable conditions relating to lighting plan; bat and otter conservation plan for full and outline consents (conditions 14, 23, 40, 41 refer);

In line with the 'Dear CPO' letter issued by Welsh Government on 1st March 2018, NRW request that an informative is attached to any planning permission granted, advising that planning permission does not provide consent to undertake works that require an EPS licence. This shall be secured by way of an Informative.

Habitats Regulation Assessment

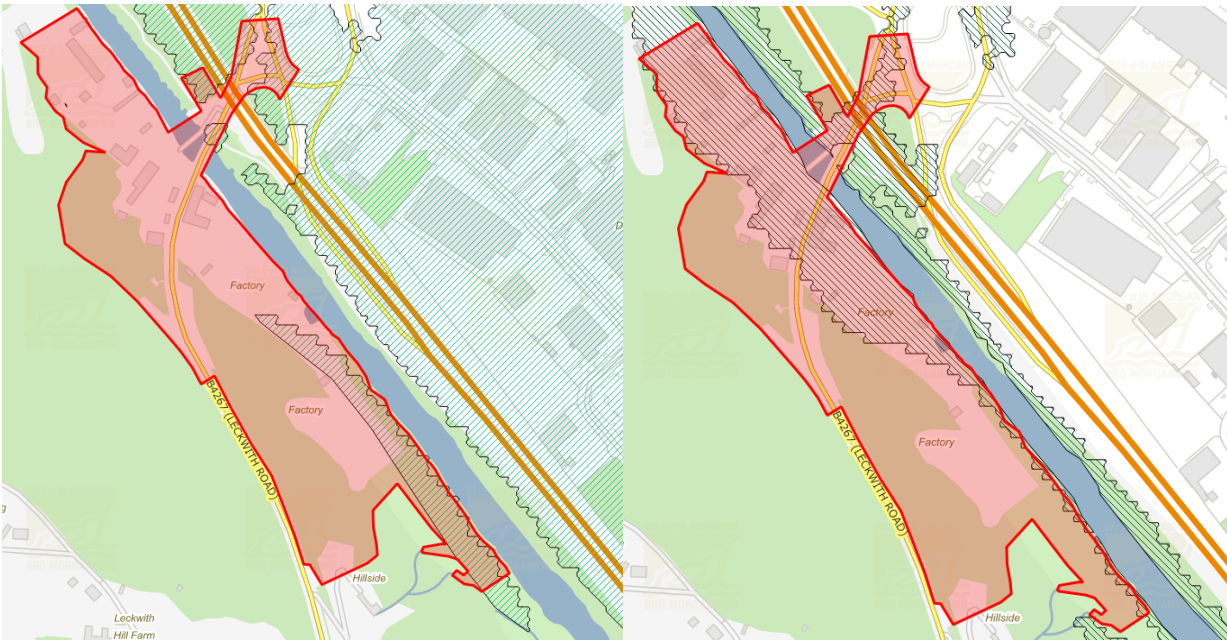
The site also falls adjacent to the River Ely which falls upstream of the Severn Estuary/ Môr Hafren Special Area of Conservation (SAC) and Special Protection Area (SPA) and as such a Habitats Regulation Assessment (HRA) has been undertaken by the Council Ecologist in support of the application, to assess the direct and indirect impacts upon species using the River Ely, namely the Twaite Shad, River Lamprey and Sea Lamprey.

The appropriate assessment concluded that the development has the potential to have a significant effect on the integrity of the site and therefore recommends conditions/restrictions on the way the proposal would be carried out. The concluding section concludes a number of measures that could be implemented, including but not limited to pollution prevention strategy; toolkit talks; long term water management; maintenance of undisturbed access along the boundaries with the River Ely and provision of better access for otters in river channel. Following consultation with NRW, they agreed with the conclusions of the HRA prepared by the Council and it is therefore considered that any impacts could be suitably controlled by way of condition.

Flood Risk and Drainage

LDP Policy MD7 (Environmental Protection) requires development proposals to demonstrate that they will not result in an unacceptable impact on people, residential amenity, property and/or the natural environment from flood risk and its consequences. The policy goes further to state that 'in respect of flood risk, new developments will be expected to avoid unnecessary flood risk and meet the requirements of TAN15, citing specific requirements relating to Zone C2.

The application site is largely located within Flood Zone C1 with land to the south-east within Zone B under the currently adopted TAN15. The River Ely corridor is shown as being within Flood Zone C2, albeit that does not extend into the site. As shown on the map extracts below:



Application site highlighted in red with indicated Flood Zone B (left) and Zone C1 (right)

With regard to development within Flood Zone B, TAN15 advises that such areas are ‘generally suitable for most forms of development. Assessments, where required, are unlikely to identify consequences that cannot be overcome or managed to an acceptable level. It is unlikely, therefore, that these would result in refusal of planning consent on the grounds of flooding. Within the table it identifies planning requirements and acceptability criteria that need to be met. This includes the planning requirement stating ‘if site levels are greater than the flood levels used to define adjacent extreme flood outline there is no need to consider floor risk further.’ With regard to highly vulnerable development (such as the residential use) it advises acceptability criteria, including acceptable consequences for nature of use; occupiers being aware of flood risk and no increase in flooding elsewhere.

With regard to Flood Zone C1, TAN15 advises that ‘plan allocations and applications for all development can only proceed subject to justification in accordance with section 6 and acceptability of consequences’ in terms of the acceptability criteria listed within the table and Section 7 of TAN15.

The justification test details that development, including transport infrastructure, within either flood zone C1 or C2, will only be justified if it can be demonstrated that:-

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement;
 - ii. or, ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;
- and,
- iii. iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,

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

The application, as amended is supported by an updated Flood Consequences Assessment dated December 2022 prepared by WSP, based upon a hydraulic modelling assessment undertaken by the applicant and agreed with NRW. The FCA concludes that the proposed development is 'considered to have a low risk of flooding from all sources. This FCA demonstrates that the scheme can be considered compliant with TAN15 and beneficial to the developed Afon Elai floodplain, subject to the interpretation of blockage scenarios'.

The FCA details a number of mitigation measures including but not limited to the minimum habitable floor levels of 8.96m AOD at upstream end of site and 8.5m AOD at downstream end of the site; review of undercroft parking areas at detailed design stage and suitably designed surface water strategy at detailed design stage.

Noting the above comments within the ecology section, the concerns of NRW with regard to the otter ledge required and the lack of such detail on the general arrangement, could be accommodated outside of the flood depth and should not therefore impact upon the conclusions of the modelling and FCA in terms of flooding impacts. To this end, and in the absence of any substantive objection to the FCA document submitted, the proposals are considered as follows against the justification tests detailed within TAN15:

- i) Whilst the site is not allocated and falls outside of a settlement boundary, it is evident that the replacement road infrastructure is of strategic importance, in maintaining connectivity between settlements in the Vale of Glamorgan and a neighbouring authority
- ii) The loss of the link with the neighbouring authority would limit access from occupiers of the Vale of Glamorgan to employment opportunities within Cardiff and would place increased strain upon other highways infrastructure to maintain any such links
- iii) The majority of the site is previously developed land
- iv) The submitted FCA and modelling demonstrates that flood related impacts can be suitably mitigated including through the design of the bridge and suitable floor levels AOD for the future development of the site.

Concern is noted from NRW with regard to the compliance with A1.12 criteria of TAN15, in terms of flooding elsewhere, noting that the submitted FCA identifies that in a 0.1% event (1:1000 year), increases in water levels would be constrained to the river channel, except in a small area of woodland to the south of the site, on the southern bank, would experience an increase in flooding of circa 2cm. Also in a 1 in 1000 year event, coupled with blockage (80% of central arch of the historic bridge, 30% of culvert) a limited degree of flooding would occur within suggested landscaped/ancillary areas. Whilst these instances are noted, they are considered to be significantly rare in occurrence, limited in its extent and would not give rise to any significant impact to any third party, that it is not considered a reason to restrict the grant of planning permission in this instance.

The applicant provided details of a Water Framework Directive assessment prepared by WSP dated February 2021, and having reviewed the document NRW have confirmed their satisfaction in this regard.

Dwr Cymru Welsh Water advised of concerns with regard to sewerage assets crossing the site, although the plans provided show no DCWW maintained assets within the footprint of either the residential development area or realigned road, albeit there may be a degree of overlap within the extend site area adjacent to the large Leckwith roundabout within the Cardiff administrative area. To this end, this is not considered to be a constraint to the grant of this planning application. Within DCWW comments they advise that a foul sewerage connection could most likely be accommodated to a manhole at the end of Hadfield Road on the Cardiff side of the bridge and recommend a condition be attached to any consent granted to this effect (condition 10). Whilst matters relating to water supply are raised it is indicated that this can be dealt with by way of a condition to any consent given and as such does not represent a reason to delay the grant of planning permission (condition 11 refers).

Comments received from the Council's Drainage Section, advise that it is suggested within the submitted drainage strategy that sustainable drainage techniques are achievable and whilst further information is required this would be secured through a SuDS Approval Body (SAB) application and an informative be attached to any consent given (informative 12 refers). Comments from NRW limiting such methods in the interest of safeguarding water quality are also noted and as such a condition relative to this has been proposed (condition 45).

Noting all of the above, it is considered that flooding and drainage constraints do not represent reason to refuse planning permission, subject to the conditions noted above.

Historic Environment

Policy SP10 'Built and Natural Environment' of the LDP states that 'development proposals must preserve and where appropriate enhance the rich and diverse built and natural environment and heritage of the Vale of Glamorgan, including 1. The architectural and/or historic qualities of individual buildings...'. Policy MD8 'Historic Environment' requires that 'development proposals must protect the qualities of the built and historic environment of the Vale of Glamorgan specifically...2. For listed and locally listed buildings, development proposals must preserve or enhance the building, its setting and any features of significance it possesses;... and 4. For sites of archaeological interest, development proposals must preserve or enhance archaeological remains and where appropriate their settings.'

Chapter 9 of the Environmental Statement provides an appraisal of the impacts upon the historic environment, including the impact upon archaeological resource and other designated heritage assets. The application is also supported by an archaeological desk-based assessment prepared by Glamorgan Gwent Archaeological Trust (GGAT) dated August 2019.



The application site includes part of the Old Leckwith Bridge (as shown above) that is designated as a Grade II* Listed Building, and as a scheduled ancient monument (GM014(GLA)), being a bridge dating back to the medieval period. The proposals indicate that this would be retained in situ and protective measures be undertaken during construction work, such as barriers and appropriate signage, to ensure no adverse impact from construction traffic.

The development will result in the demolition of the more modern Leckwith New Bridge and viaduct that are currently within circa 5m of the ancient monument to its southern site, that Cadw recognise has a dominating impact upon the bridge. It is however recognised that the proposals would introduce a new road bridge and viaduct to the north of the bridge (within circa 2.5 metres), that Cadw also recognise will dominate the scheduled monument. However, Cadw state *'The new bridge is a simpler structure to the Leckwith New Bridge and the proposed residential development will provide paths and public access that will allow the scheduled monument to be observed. As such whilst the proposed bridge will have a considerable impact on the setting of scheduled monument GM014 Leckwith Bridge this will be slightly less than the current impact of the Leckwith New Bridge.'*

It is however, also acknowledged that the proposed residential development would result in the introduction of built form of potentially up to six storeys in height and similarly could have an impact upon the setting of the identified heritage asset. Cadw, however, have clarified that the 'setting of the bridge relates to its position across the river and the local topography rather than any views of it'. To this end, they advise further that 'the residential development is situated in an area that has already been significantly altered by modern development. Whilst the change to a residential use will increase the number of buildings in this area and be a visual alteration, this will not significantly alter the way that the bridge is experienced, understood and appreciated and therefore will not have a significant impact on the setting of the scheduled monument.' Noting this, the comments received from the Planning Department's Conservation Officer (in post at the time) and having regard to the

provisions of the relevant policies, it is considered that the proposed development and associated highway works would assist in the preservation and enhancement of the Leckwith Bridge, in compliance with both criteria 2 and 4, as well as the removal of motorized vehicles from the bridge, in favour of cyclists and pedestrians.

Conditions will be attached to any permission given require further details of construction phasing and traffic management to ensure that site remediation / construction related traffic would not pass over and cause damage to the listed bridge (conditions 1, 20 and 28 refer).

13 ancient monuments and 11 registered parks and gardens fall within 3km of the site, albeit the desk based assessment notes that with the exception of the SAM of Leckwith Bridge (impacts considered above) and the registered parks and gardens of Thompson's Park (Sir David's Field) and Fairwood House, would not be impacted upon by the development owing to intervening topography, built form and vegetation. Following consultation with Cadw, they advise that although the proposals would likely be visible from the identified Parks and Gardens, owing to the extent of separation, the proposals would not have an impact on their settings.

The statement identifies 42 sites of archaeological interest within the study area of 750m from the site, inclusive of 10 within the site, including Leckwith New Bridge and Viaduct and Leckwith Bridge House, both of which are not statutorily protected and will be lost as a result of the proposals. The submitted survey suggests that this loss would be mitigated by undertaking a photographic survey and building survey respectively. With regard to other features to be directly impacted by the development, inclusive of a lime kiln and old weir, the ES and archaeological assessment recommend that these could potentially be preserved in situ or preservation by record if not, and mitigated by a suitable archaeological watching brief.

The Council's archaeological advisors, GGAT, advise that the suggested approach to mitigation is considered appropriate and advise that they have 'no objection to the determination of the consent' providing that conditions relating to a historic building recording and analysis (condition 38 refers) and a written scheme of investigation (condition 39 refers), are attached to any permission granted.

Subject to the above conditions securing appropriate mitigation it is considered that the development would not adversely affect the identified historic assets, in accordance with Policies SP10 and MD8 of the LDP and section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

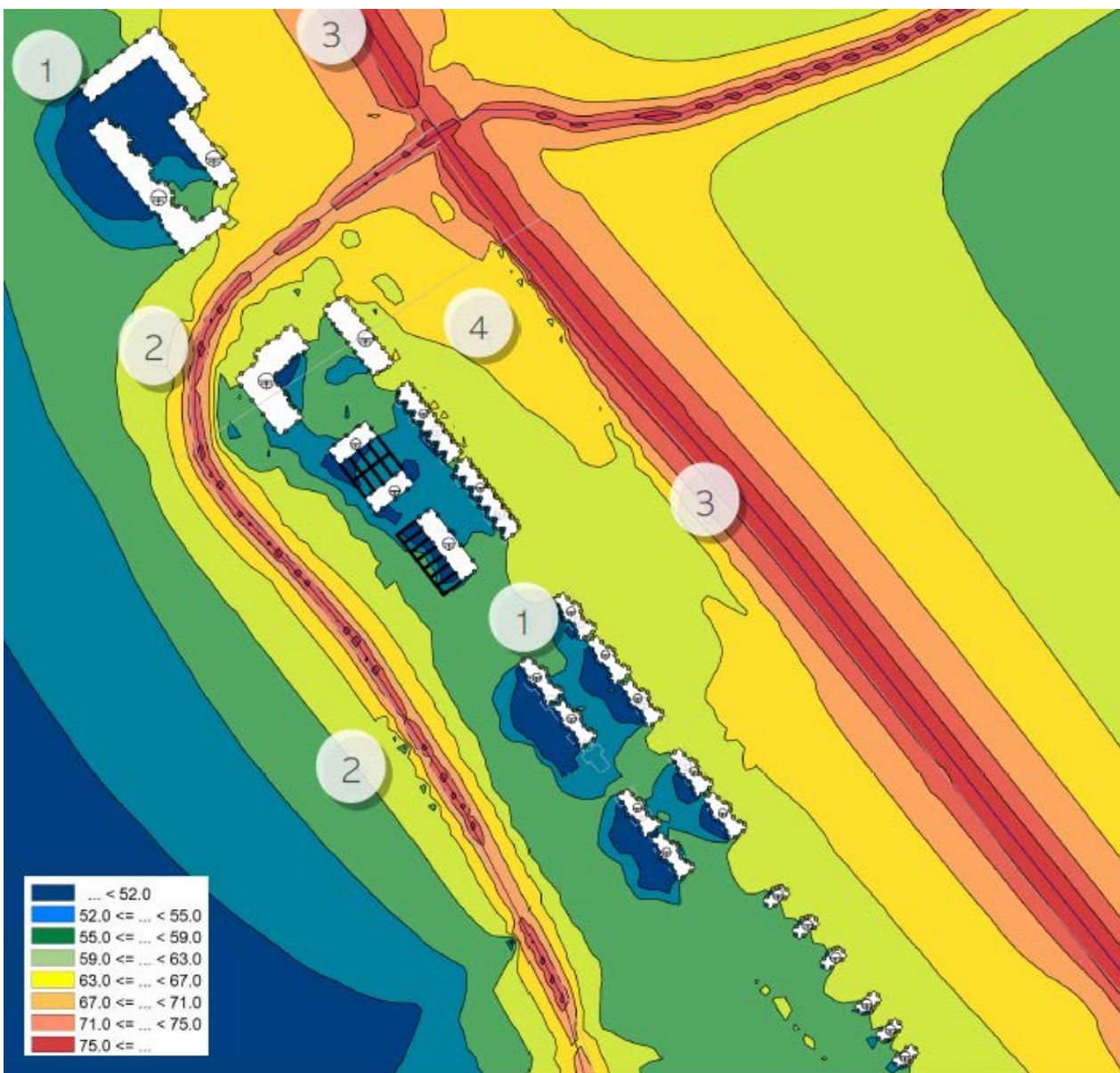
Noise

Policy MD7 (Environmental Protection) states that 'development proposals will be required to demonstrate they will not result in an unacceptable impact on people, residential amenity, property and / or the natural environment from' a number of criteria including '4. Noise, vibration, odour nuisance and light pollution... Where impacts are identified the Council will require applicants to demonstrate that appropriate measures can be taken to minimise the impact identified to an acceptable level. Planning conditions may be imposed or legal obligation entered into, to secure any necessary mitigation and monitoring processes

Technical Advice Note 11: Noise (1997) (TAN11) provides guidance for consideration of noise in the determination of planning permission for residential development depending upon which of the four noise exposure categories (A-D) the application falls.

During the course of the application, concern was raised by the Council's Shared Regulatory Services (SRS) with regard to noise exposure of future residents of the site. Originally there were areas of concern including the potential need for noise barriers to both the A4232 and the B4267, the effectiveness of these barriers and also their associated visual impact; external noise levels; ventilation and overheating. As such the LPA entered into lengthy dialogue with the applicant with a view to having details that in principle could achieve a satisfactory layout.

In response, an Environmental Noise Assessment Report by Mach Acoustics was submitted in support of the application. This included a noise exposure model of the proposed masterplan layout as shown below, detailing within which of the NECs each part of the development falls (Blue = Category A; Green Category B; Yellow Category C and Red Category D):



Noting this, the frontages of the development upon the 'southern plateau' would largely be subject to noise levels with NEC B, although the frontage of the block within the 'northern plateau' would experience Noise levels within NEC C to its eastern elevation fronting the A4232 and the southern elevation adjacent to the B4267. The proposals also indicate that the illustrative masterplan would generally provide amenity provision within NEC A and B.

With regard to development within NEC B, TAN11 indicates that 'Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection'.

TAN11 states that with regard to development within NEC C: '*Planning permission should not normally be granted. Where it is considered that permission should be given, for example, because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.*'

Pursuant to the receipt of additional information, it was established that practically the installation of barriers as noted previously was not considered suitable or necessary. As such the application documents have revisited the layout, seeking to utilise building mass and layout to screen amenity areas and ensure lower noise levels. The amended details indicate the provision of a more suitable layout to provide acoustic shadows on the site, including that with good design, inclusive of the use of dual aspect style accommodation to those within NEC C, that BS8223 compliant internal noise levels can be achieved. It is acknowledged that the applicant has advised that further modelling will be required for overheating, although it must be recognised that the current submissions are in outline only and detailed design is an issue that will need to be established under any subsequent reserved matters submission.

Following the review of the submissions the Council's Shared Regulatory Services, have advised that any subsequent layout should be conditioned to achieve the following:

1. *That external amenity areas in the form of and due to building mass, acoustic shadows and havens be developed across the whole site so to achieve a minimum of below 55dB(A) with ideally a level of 50dB(A) being achieved.*
2. *The internal noise levels as per British Standard 8233: 2014 'Guidance on sound insulation and noise reduction for buildings', be achieved with the minimal use of sealed glazing units and mechanical ventilation so that future occupants are not living in sealed boxes.*
3. *As acknowledged by the applicant further thermal modelling shall take place so to ensure both a high level of thermal comfort is achieved, the requirements of Building Regulation Document O aside, along with a good quality internal acoustic environment.*

As aforementioned, permission has not been sought for the detailed design of the units, although the information submitted indicates that the above can satisfactorily be achieved. To this end, it is considered that in principle a layout and form of development can be achieved that would comply with the provisions of both MD7 of the Development Plan and TAN15 subject to the works being undertaken in accordance with the approved FCA (condition 29 refers).

Contaminated land

The application is supported by a Preliminary Risk Assessment prepared by WSP that determines that owing to the historic use of the site, inclusive of historic landfill uses, that 'the risk to human health receptors from a contaminated land perspective is considered to be high.' It also indicates that the likelihood of direct contact with ground gases and risk to controlled water is also likely to be high.

Following review of the proposals by the Council's Shared Regulatory Services they note that 'the report confirms in-house records in relation to potentially contaminative historical activities in and around the site and the need for a ground investigation.' As such they note that a contamination and ground gas assessment of the site, including site based investigations and monitoring would be required to ensure that the site is made suitable for use. As such they request a number of conditions and an informative be attached to any consent granted including those relating to ground gas protection (condition 32 refers); contaminated land assessment (condition 31 refers); contaminated land remediation and verification plan and measures to be carried out (conditions 33 and 34 refer); unforeseen contamination (condition 35 refers); imported soils and aggregates (condition 36 refers) and use of site won materials (condition 37 refers). The proposed mitigation measures relate to known techniques and it is highly likely that the site can be made safe for a residential end use. The development is considered acceptable in this respect, subject to the identified conditions. NRW also request conditions relating to the provision of a CEMP (condition 27 refers); biodiversity risk assessment from invasive species (condition 44 refers); contamination and associated verification and unforeseen contamination (as above conditions 33 and 34 refer). Noting the nature of the site, they also request conditions relating to control over surface water drainage and piling with regard to water quality (conditions 45 and 46 refer).

The site also includes an historic hazardous substance facility (HSE ref H3348 Flogas UK), where the Health and Safety Executive (HSE) zones remain in effect and as such following consultation with the HSE online consultation tool it advised against development. The applicant's agent has provided details that the associated use has not been in effect for in excess of 5 years and as such it is considered that any associated hazard has ceased. The Vale of Glamorgan Council in its role as the hazardous substances authority can therefore consider the revocation of the consent under section 14 (2b) of the Planning (Hazardous Substances) Act 1990 states '*(2)The hazardous substances authority may also by order revoke a hazardous substances consent if it appears to them....(b)that planning permission [F1 or development consent] has been granted for development the carrying out of which would involve a material change of use of such land and the development to which the permission [F2 or development consent] relates has been commenced.*' To this end, should the LPA be minded to grant planning permission, it is considered that there would be reasonable grounds for the revocation of the consent noting its apparent cessation and in accordance with guidance within the appropriate Act, that an alternative use for the site has been granted.

Air Quality

Chapter 11 of the Environmental Statement discusses air quality issues relating to the development of the site. It concluded that the impact on air quality from development traffic would be negligible and the medium potential impact from construction activities (such as dust) could be adequately mitigated. The scale of development has also been substantially reduced since the preparation of this document. The site is also neither within nor adjacent

to any Air Quality Management Area (AQMA) and no objections have been received from the Council's Shared Regulatory Services section with regard to the prospective residential use. Noting the above, the development site is considered acceptable for the intended residential use and would not have any significant impact on air quality from its operational or construction phases.

Mineral safeguarding

As noted previously the site lies within a Mineral Safeguarding Area and as such Policy MG22 of the LDP is of relevance. This policy requires that known mineral resources of sandstone, sand and gravel and limestone to be safeguarded, with new development only being permitted where the identified criteria are met as follows:

1 "Any reserves of minerals can be economically extracted prior to the commencement of the development"

2 "Or extraction would have an unacceptable impact on environmental or amenity considerations"

3 "The development would have no significant impact on the possible working of the resource by reason of its nature or size"

4 "The resource in question is of poor quality / quantity"

Having regard to the above, noting the physically constrained nature of the site and , it is considered that owing to the position within an SLA, and proximity to built form, including residential properties and those within Cardiff, that the proposal would meet criterion 2 of this policy.

National Grid

As noted within the consultation section, the site as existing is crossed by apparatus belonging to Western Power, that may represent a constraint to the future development of the site, including impact on the location of dwellings and open space areas within the site. It is however, noted that the residential development of the site is in outline and could be subject to change, whilst any requirement for works that may impact upon this apparatus would be subject of a separate consenting regime with the statutory undertaker and may require planning consent in its own right (subject to the nature of any such works).

Within the amended submissions, the applicant has advised that following consultation with Western Power that they had confirmed that there was no objections to development beneath the 132kv lines subject to suitable clearances whilst the 33kv could be undergrounded and diverted along the bridge. National Grid have confirmed that the applicant has sought budget estimates for the proposed works to divert their assets and would be subject to an application to them for any diversion or connection works. Noting the indicative nature of the residential scheme and the separate consenting regime of National Grid (previously Western Power), it is considered that this does not represent a reason to delay planning permission in this instance.

Other Matters

In answer to a query from Councillor Johnson, no extensive discussions have taken place between planners for Cardiff Council and the Vale of Glamorgan with particular regard to education provision, although no objection has been raised by Cardiff Council as Local Planning Authority in response to the application. Officers are unaware of any such discussions between the respective Councils' Education sections.

Notwithstanding this, the administrative boundary is not necessarily considered to represent a barrier to education provision of future occupiers. The site falls within the catchment for Llandough Primary, Ysgol Pen Y Garth (Welsh) and St Andrews and St Josephs (denominational) for primary education provision; and St Cyres and Ysgol Gymraeg Bro Morgannwg (Welsh) for secondary provision that could cater for future education needs whilst services within Cardiff inclusive of Fitzalan High and Kitchener Primary Schools are within 1.2km of the site within the Cardiff administrative area that could serve the development. This would be similar in relationship to those properties within the Cardiff side of the wider Penarth marina/International Sports Village that could access education facilities within the Vale.

In terms of healthcare provision, Cardiff and Vale Health Board note issues within their response with regard to capacity issues within the Eastern Vale Cluster with regard to GP provision and challenges with regard to the delivery of the Wellbeing Hub at Penarth Leisure Centre, in addition to lack of capacity for dentistry and optometry provision. However, they do not object to the proposals on this basis and make no recommendations in this regard. The service-wide issues are acknowledged, however in the absence of an objection from the Health Board and noting that these are generally systemic issues across the whole of the NHS, it is considered that this does not represent a reason to delay or refuse planning permission in this instance.

In terms of maintenance responsibility for the new bridge, following consultation with highway development colleagues, it is officers' understanding that the Vale of Glamorgan Council are currently responsible for the road bridge and viaduct, and would be for new structure also.

Planning Obligations

The Council's Supplementary Planning Guidance on Planning Obligations states that developments of this size (on the basis of 228 units) would usually require contributions as follows:

40% affordable housing provision – up to **92 units**

Sustainable Transport - £2300 per dwelling = **£524,400**

Education Contribution - £13,811 per dwelling = **£3,148,908 (although this would likely be lower when excluding 1 bedroom units)** and it is noted that the Council's Education section have advised a scheme for 250 dwellings that a contribution of £3,054,408.

Community Facilities – £287,280

Public Open Space – provided on-site or £2,668 per dwelling = **£608,304**

Public Art – 1% of build costs

As aforementioned, there are a number of abnormal costs associated with the development of the site whilst the proposed full element of the hybrid application proposes the provision of a revised viaduct arrangement.

As such, the submissions are supported by a viability assessment prepared by Peter Thomas Consulting, that details that in addition to the construction of the replacement bridge and viaduct; 10% affordable housing provision and a contribution of circa £300,000, suggested by the applicant as being towards public open space, would be sustainable without undermining the viability of the site.

In line with the guidance contained within paragraphs 6.3 and 6.4 of the adopted Planning Obligations SPG, this viability information has been reviewed by HRT and TC Consult. The report provides the following analysis with regard to the viability of the site should a suite of planning obligations in addition to the provision of the replacement road infrastructure be provided:

It is clear from the three DVMs appended to this letter that, if a policy compliant 40% provision of affordable housing is demanded at the proposed scheme, in addition to the replacement of Leckwith Bridge and the associated highways improvements, then the proposed scheme is not financially viable and would not be deliverable.

With regard to the order of costs provided with regard to the replacement bridge and highway works the report states that:

The Cost Estimate which was provided to us by TC Consult confirms that the estimated cost of the replacement bridge and highways works that had previously been submitted by the planning applicant are fair and reasonable.

However, it advises that *'there is a wide discrepancy between the proposed development costs put forward by Gleeds and TC Consult in their respective reports. We have noted this elsewhere in this letter, but it is worth repeating, that both Gleeds and TC Consult are companies of long standing and of good repute, with experience of costing such schemes. Herbert R Thomas are not qualified to decide which cost estimate is accurate nor do we have sufficient experience or skills to provide an opinion on what the correct development cost should be.*

The Second DVM illustrates that by reducing the affordable housing contribution to 10%, but adopting the proposed development costs put forward by TC Consult, the proposed scheme is profitable but not at a level sufficient to deem it viable.

The Third DVM, which utilises the development costs put forward by the planning applicant as part of their prior viability work and which are supported by the Gleeds Order of Cost Estimate, demonstrates that if a reduced affordable housing contribution of 10% is permitted, then a deliverable, financially viable and profitable scheme could be produced, which would also provide a replacement bridge at Leckwith Road and improvements to the surrounding highways.

Although acknowledging the discrepancies identified it is considered by officers that the provision of the needed replacement bridge, coupled with the full suite of contributions arising from the development would render the development of the site unviable. The provision of the road and the 10% affordable housing on site would however provide a profitable scheme. Whilst the viability of the development would depend based on the different schedule of costs, it is considered that it has been evidenced that the provision of the road and the full suite of obligations would render the site unviable. It is evident from the submitted costs/valuation schedule that such a contribution could threaten the viability of the development.

With regard to the guidance contained within the Planning Obligations SPG, paragraph 6.7 states that 'it may not always be possible for developers to satisfy all the planning obligation requirements.' Paragraphs 6.8 and 6.9 go on to indicate how planning obligations may be prioritised and the Council will consider the specific needs arising from the development. This includes Essential and Necessary Infrastructure as defined by paragraph 6.9 and 6.10 of the SPG as follows:

Essential infrastructure is defined by the SPG as being 'required to enable the development of the site (LDP Objectives 1, 2, 3, 4 & 8 refer) 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.'

As aforementioned it is evident that the existing road infrastructure is in need of replacement owing to structural issues with the existing viaduct and the arterial nature of the route. The proposed residential development of the site that would facilitate the delivery of this infrastructure and in turn the road would enable access to the site. To this end, it is considered that that the proposals would meet the definition of essential infrastructure and therefore it is considered reasonable to prioritise this over other contributions as noted above. As required by paragraph 6.11 of the SPG this has been considered in conjunction with a viability assessment.

Consequently, on balance it is considered that with the exception of the provision of 10% affordable housing within the confines of the site and a further contribution of circa £300,000 that it has been suitably demonstrated that the renewal of the existing road link represents a material reason to accept a lesser level of planning contributions in this instance.

Whilst within the viability report it is suggested that the £300,000 would be utilised towards public open space, it is noted that this is an 'in kind' contribution that would need to be provided within any reserved matters submission through a suitable layout and landscaping scheme to demonstrate that a suitable provision would be accommodated within the confines of the site and this could be suitably be controlled by way of condition. As noted above, noting the constraints at the site, it is considered more appropriate to require contribution of circa £60,000 towards replacement tree planting with the remaining £240,000 providing a contribution towards educational needs arising from the site, and this would be required by way of a legal agreement attached to this consent.

Conclusion/balance

It is acknowledged through the body of the report that there is a degree of tension with certain policies within the development plan, including those relating to the location of development, impact upon trees and planning obligations arising from the residential development. However, this must be weighed against the significant benefits of the scheme, namely the provision of upgraded transport infrastructure along one of the main arterial connections between Cardiff and the Vale of Glamorgan. As such subject to suitable mitigation to be secured through conditions and mechanisms within the legal agreement, it is officers' view that the proposed provision of the road holds significant weight and as such when weighed in the planning balance the proposals are considered to be acceptable and Members are advised to approve planning permission for the reasons given above.

RECOMMENDATION

APPROVE, subject to conditions and a Section 106 Agreement to provide for the following:

- Procure that 10% (up to 23) 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 £240,000 for the provision or enhancement of education facilities to meet the needs of future occupiers
 - Pay a contribution of £60,000 for the off-site planting of trees to mitigate loss as a result of the development
1. Prior to the commencement of any part of the development hereby approved (including demolition and site clearance) or the submission of any application for reserved matters or discharge of conditions, a phasing plan, inclusive of a timetable for the construction/delivery of the road and bridge link, each phase of residential development and demolition of the existing viaduct and bridge, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the timing and delivery of the following:
- Demolition and site clearance
 - Remediation and mitigation
 - Temporary construction access and associated works
 - Construction deliveries including, machinery, materials and importation of clean materials
 - Removal of existing B4267 bridge and viaduct and associated remediation

All works shall thereafter be carried out in full accordance with the approved details.

Reason:

For the avoidance of doubt and to ensure suitable delivery of required infrastructure for demolition, construction and operation of the development, to safeguard the historic Leckwith Bridge and to ensure the development is carried out in a comprehensive and sustainable manner, in accordance with Policies MD2, MD7 and MD8 of the Local Development Plan.

2. Prior to the commencement of any part of the development hereby approved (including demolition and site clearance) or the submission of any application for reserved matters or discharge of conditions, details of implementation and delivery of connection between the works approved under this permission and the associated works within the Cardiff City Council administrative boundary shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details and to the satisfaction of the Local Planning Authority.

Reason:

To ensure the delivery of infrastructure and to safeguard the integrity of the Strategic Highway Network in compliance with Policies MG16 and MD2.

OUTLINE ONLY CONDITIONS

3. Details of the 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.

4. 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.

5. 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.

6. The development shall be carried out in accordance with the scale parameters specified within drawing reference 1844/S.120C 'Leckwith Quay Parameter Plan: Land Use'; 1844/S/121C 'Leckwith Quay Parameter Plan: Building Heights'; and 1844/S.122C 'Leckwith Quay Parameter Plan: Movement Hierarchy'.

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) / MD2 (Design of New Development) of the Local Development Plan.

7. No more than 228 residential units shall be erected on the application site.

Reason:

For the avoidance of doubt

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

1844/S.102H 'Proposed Masterplan'; 1844/S.120C 'Leckwith Quay Parameter Plan: Land Use'; 1844/S/121C 'Leckwith Quay Parameter Plan: Building Heights'; and 1844/S.122C 'Leckwith Quay Parameter Plan: Movement Hierarchy'; 1844/S.301E 'Proposed Site Massing Sections'; 1844/S.101A 'Site Location Plan' received 6 December 2022

1844/S.101 Rev A Site Location Plan

Environmental Statement: Leckwith Quays, Leckwith Road, Cardiff prepared by RPS dated October 2020

Environmental Statement Addendum: Leckwith Quays, Leckwith Road, Cardiff prepared by Carney Sweeney dated December 2022

Design and Access Statement prepared by Loyn & Co dated May 2020

Design and Access Statement Addendum prepared by Loyn & Co dated November 2022

Planning Report: Leckwith Quays prepared by RPS dated October 2020

Planning Statement Addendum prepared by Carney Sweeney dated November 2022

Leckwith Quay: Flood Consequences Assessment ref 7005-3561-C-RP-0003-07-FCA prepared by WSP and dated December 2022

Environmental Noise Assessment Report prepared by Mach Acoustics dated 04 March 2022

Transport Assessment (TA) document project Number 60608933 A093950-2 dated March 2020.

Ecological Assessment prepared David Clement Ecology dated November 2022

Archaeological Desk Based Assessment report no 2019/041 prepared by Glamorgan Gwent Archaeological Trust dated August 2019

Arboricultural Impact Assessment Revision A dated 22nd September 2022 prepared Treescene

Tree Survey dated 18th August 2022 prepared by Treescene

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.

9. Any reserved matters application shall be designed in accordance with the principles and noise levels identified within the 'Environmental Noise Assessment Report prepared by Mach Acoustics' dated 4 March 2022 and include details of background noise sources/levels and measures to protect the amenity of residents in the development. This shall achieve the following:
 1. That external amenity areas in their form and location, and due to building mass, acoustic shadows and havens be developed across the whole site so to achieve a minimum of below 55dB(A) with ideally a level of 50dB(A) being achieved.
 2. The internal noise levels shall be as per British Standard 8233: 2014 'Guidance on sound insulation and noise reduction for buildings' (or any other order/Standard revoking and re-enacting that Standard with or without revocation), be achieved with the minimal use of sealed glazing units and mechanical ventilation so that future occupants are not living in sealed boxes.
 3. As acknowledged by the applicant further thermal modelling shall take place so to ensure both a high level of thermal comfort is achieved, the requirements of Building Regulation Document O aside, along with a good quality internal acoustic environment.

The development shall thereafter be carried out in accordance with the approved details and any building shall not be occupied until the approved measures have been implemented. The measures shall thereafter be maintained in perpetuity.

Reason:

To safeguard the amenities of occupiers of the development, and to ensure compliance with the terms of Policies SP1 and MD7 of the Local Development Plan.

10. Only foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made at:
The 1600mm foul sewer between manhole reference number ST16751201 as indicated on the extract of the Sewerage Network Plan attached to this decision notice.

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 and to ensure compliance with Policy MD7 of the Development Plan.

11. No development shall take place until a potable water scheme to serve the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the existing water supply network can suitably accommodate the proposed development site. If necessary, a scheme to reinforce the existing public water supply network in order to accommodate the site shall be delivered prior to the occupation of any building. Thereafter, the agreed scheme shall be constructed in full and remain in perpetuity.

Reason:

To ensure the site is served by a suitable potable water supply and to ensure compliance with Policy MD7 of the Development Plan.

12. Notwithstanding the submitted Plans, prior to the commencement of any construction works or development on any phase as agreed by condition 1 of this permission (or part thereof, exclusive of the full element of the permission for the replacement B4267), full Engineering details of the internal road layout for the site inclusive of turning facilities, street lighting, highway drainage, onsite parking, and any associated highway retaining structures within the vicinity of the site have been submitted and approved by the Local Planning Authority.

This shall include any additional improvements identified and agreed to through the Transport Assessment and its review to cover the development and the surrounding highway infrastructure network.

These details shall fully comply with Design Manual for Roads and Bridges and Vale of Glamorgan Councils Standards for adoption.

Reason:

To ensure the minimum Design and Construction Standards are achieved in the interests of Highway and Public Safety and to ensure compliance with Policy MD2 'Design of New Development'.

13. Notwithstanding the submitted details, prior to the beneficial occupation of any respective phase as agreed by condition 1 of this permission (or part thereof, exclusive of the full element of the permission for the replacement B4267)), a Travel Plan shall be prepared to include a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use. The Travel Plan (s) 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), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

14. Any reserved matters submission shall be supported by a lighting scheme. The scheme is to include:

- Details of the siting and type of external lighting to be used.
- Drawings setting out light spillage in key sensitive areas that demonstrate that the River Ely and associated buffer and the woodland surrounding the site shall be unlit by external lighting and be maintained as dark corridors.
- Details of lighting to be used both during construction and operation.

The lighting shall be installed and retained in accordance with the approved details as approved during construction and operation of the development or phase of development (as identified by condition 1 of this consent).

Reason:

To protect the habitats and the commuting corridors of protected species (including bats and otters) along the western boundary of the site and the River Ely in accordance with the requirements of Policies MG19 and MD9 of the Development Plan

FULL ONLY CONDITIONS

15. 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.

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

70053561-WSP-XX-XX-CR-DE-1300 'B4267 Leckwith Road Highway Improvements Street Lighting & Traffic Signals'; 70053561-WSP-XX-XX-CD-DE-100 'B4267 Leckwith Road Highway Improvements Existing Arrangement'; 7005361-WSP-XX-XX-CE-DR-103 'B4267 Leckwith Road Highway Improvements Highway Design Vision Splays, Departures & Relaxations from Standards'; 70053561-WSP-XX-XX-DR-CE-105 'B4267 Leckwith Road Highway Improvements Cross Section Location Plan Sheet 1 of 4'; 70053561-WSP-XX-XX-CR-DE-106 'B4267 Leckwith Road Highway Improvements Highway Cross Section 2 of 4'; 70053561-WSP-XX-XX-CR-DE-107 'B4267 Leckwith Road Highway Improvements Highway Cross Section 3 of 4'; 70053561-WSP-XX-XX-CR-DE-108 'B4267 Leckwith Road Highway Improvements Highway Cross Section 4 of 4'; 70053561-WSP-XX-XX-DR-CE-104 'B4267 Leckwith Road Highway Improvements Highway Long Section'; 70053561-WSP-XX-XX-CR-DE-500 'B4267 Leckwith Road Highway Improvements Proposed Drainage'; 70053561-WSP-XX-XX-CR-DE-109 'B4267 Leckwith Road Highway Improvements Swept Path Analysis'; 70053561-WSP-XX-XX-CR-DE-109 'B4267 Leckwith Road Highway Improvements Swept Path Analysis'; 70053561-WSP-XX-XX-CR-DE-200 'B4267 Leckwith Road Highway Improvements Demolition/Carriageway Tie In' received 24 April 2022

700536561-WSP-XX-XX-CE-DR-102 Rev P01 'B4267 Leckwith Road Highway Improvements General Arrangement (Option 2)'; 70053561-WSP-XX-XX-CR-DE-400 Rev P01 'B4267 Leckwith Road Highway Improvements Barriers & Guardrails'; 70053561-WSP-XX-XX-CR-DE-600 P01 'B4267 Leckwith Road Highway

Improvements Levels and Contours'; 70053561-001 Rev P01 'Leckwith Access Bridge Existing General Arrangement' and 70053561-002 Rev P04 'Leckwith Quay Bridge Proposed General Arrangement' received 6 December 2022

1844/S.101 Rev A Site Location Plan

Environmental Statement: Leckwith Quays, Leckwith Road, Cardiff prepared by RPS dated October 2020

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Arboricultural Impact Assessment Revision A dated 22nd September 2022 prepared Treescene

Tree Survey dated 18th August 2022 prepared by Treescene

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.

17. The soffit level of the bridge approved shall be set at least at 8.73m AOD.

Reason:

To manage and reduce the risk of flooding to the proposal and elsewhere and to ensure compliance with Policy MD7 of the Development Plan and TAN15.

18. The road, bridge and associated junctions shall be substantially complete such that it is operational as a highway suitable for use by vehicular traffic, pedestrians and cyclists prior to the beneficial occupation of the 1st dwelling approved under this permission and associated reserved matters permissions.

Reason:

To ensure the proper and timely delivery of the link road to safeguard the historic Leckwith Bridge and provide improvements to the highway network to meet the requirements of policies MD2 and MD7 of the Local Development Plan.

19. Notwithstanding the submitted Plans, no development shall commence on the development until full Engineering details to include design calculations (certified by a Professional Engineer) of any structures, details of the vehicular / pedestrian access inclusive of vision splays, street lighting, highway drainage systems, onsite parking, any associated highway retaining structures within the vicinity of the site and any carriageway resurfacing on the Leckwith Road interchange & B4267 Leckwith Hill as agreed and required by the Local Planning Authority have been submitted and approved by the Local Planning Authority.

This shall include any additional improvements identified and agreed to through the Transport Assessment and its review to cover the development and the surrounding highway infrastructure network.

These details shall fully comply with Design Manual for Roads and Bridges and Vale of Glamorgan Councils Standards for adoption.

The development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure the minimum Design and Construction Standards are achieved in the interests of Highway and Public Safety and to ensure compliance with Policy MD2 'Design of New Development'.

20. Prior to the commencement of the demolition of the existing B4267 Leckwith bridge & all associated works and/or the construction and implementation of the new Leckwith bridge & all associated works, a scheme detailing full proposals for diversionary routes, temporary signage and traffic lights and all associated temporary TRO's shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall thereafter be implemented throughout the demolition/construction period.

Reason:

In the interests of maintaining highway efficiency and safety in accordance with Policy MD2 of the Development Plan.

21. Notwithstanding the submitted plans no development shall commence on the construction of the proposed Leckwith Bridge replacement or any other associated structural works including highway supporting embankment earth works with slope gradients of 1:4 until full technical highways approval and an approval in principle for structures have been granted. The design and construction of all bridge and structural works must comply with the requirements of the Design Manual for Road and Bridgeworks, (DMRB), the Manual of Contract Documents for Highway Works, (MCHW). The design of the works must also follow the Technical Approval, (TA), process contained with the DMRB. The works must thereafter be carried out in accordance with the approved details.

Reason:

To ensure the minimum Design and Construction Standards are achieved in the interests of Highway and Public Safety and to ensure compliance with Policy MD2 of the Development Plan

22. Prior to the beneficial use of the realigned B4267, a scheme for the Traffic Regulation Orders (TRO's) to include the speed limits on the B4267 Leckwith Bridge, carriageway markings, signage and street lighting to ensure a safe means of access and to prevent parking, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented (by means of a Traffic Regulation Order if necessary) in accordance with the approved details.

Reason:

In the interests of highway safety and the free flow of traffic and to ensure compliance with Policies MD2 and MD5 of the LDP.

23. Prior to the commencement of construction works or development of the road and bridge subject of this permission a lighting scheme, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- Details of the siting and type of external lighting to be used.
 - Drawings setting out light spillage in key sensitive areas that demonstrate that the River Ely and associated buffer and the woodland surrounding the site shall be unlit by external lighting and be maintained as dark corridors.
 - Details of lighting to be used both during construction and operation.

The lighting shall be installed and retained in accordance with the approved details as approved during construction and operation.

Reason: To protect the habitats and the commuting corridors of protected species (including bats/otters) along the Western boundary of the site and the River Ely in accordance with the requirements of Policies MG19 and MD9 of the Development Plan.

24. Prior to the commencement of any construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), a strategy setting out a scheme of replacement/supplementary tree planting for the whole site, in addition to any off-site mitigatory planting, to be included as part of the

landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide a level of tree coverage that is equivalent to the existing on the site as shown on the tree constraints plan unless there is a sound ecological or arboricultural reason to provide a lesser amount. The scheme shall include the tree planting areas shown on drawings JSL-4323-RPS-XX-EX-DR-L-9001 Rev P03 'Landscape Strategy General Arrangement (Whole Site)', in accordance with the specification contained within JSL-4323-RPS-XX-EX-DR-L-9008 Rev P02 'Indicative Landscape Planting Schedule and Specification' and shall include details of planting on the site boundaries, woodland edges, car parking areas, amenity spaces and open spaces. The scheme shall be implemented in accordance with the approved details.

Reason:

To provide suitable replacement and new tree planting on the site, in accordance with Policies SP1 (Delivering the Strategy), MG17 (Special Landscape Areas), MD1 (Location of New Development) and MD2 (Design of New Development) of the Local Development Plan.

25. 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 within any particular phase (as agreed by condition 1 of this permission), whichever is the sooner; and any trees or plants which within a period of 10 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), MG17 (Special Landscape Areas), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

26. Prior to the commencement of any site clearance, demolition, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), a revised Arboricultural Implications Assessment and Method Statement for that particular phase, shall be submitted to and approved in writing by the Local Planning Authority. This should include:
- a) the protection of all retained trees within the development or phase of development
 - b) the proposed pruning, felling or other tree work to be carried out by a professionally qualified tree surgeon and in accordance with BS 3998:2010;
 - c) the appointment of a Project Arborist responsible for the marking of trees to be felled, monitoring the implementation of all tree protection measures, demolition activity and foundation works and keeping an auditable record of monitoring.

d) further details of the full implementation of all recommended barrier fencing and ground protection measures

e) the removal and installation of all hard surfacing, drainage excavations and specialist foundation to be undertaken in accordance with recommended construction techniques and working methodology to be approved.

The works shall thereafter be carried out in accordance with the approved details.

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), MD2 (Design of New Developments), MD8 (Historic Environment) of the Local Development Plan.

27. Prior to the commencement of any site clearance, demolition, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), until a Construction Environment Management Plan (CEMP) for that particular phase shall be submitted to, and approved in writing by, the Local Planning Authority, for the respective part of the site. 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) management, control and mitigation of noise and vibration;
- xi) odour management and mitigation;
- xii) diesel, chemical and oil tank storage areas and bunds;
- xiii) how the developer proposes to accord with the Considerate Constructors Scheme (www.considerateconstructorsscheme.org.uk) during the course of the construction of the development; and
- xiii) a system for the management of complaints from local residents which will incorporate a reporting system.
- xiv) General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- xv) Soil Management: details of topsoil strip, storage and amelioration for re-use.
- xvi) Water Quality Monitoring Plan - to include:
 - o Details of monitoring methods

- o Frequent assessment of the visual water quality, particularly whilst carrying out bridgework, or working in or near the watercourse.
- o Instructions to notify NRW in the event of a pollution being caused.
- o A requirement to stop work and review further measures in the event that existing pollution mitigation is not effective.
- o Details of triggers for specific action and any necessary contingency actions, for example the need to stop work, introduction of drip trays, make use of spill kits and shut-off valves.
- xvii) Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
- xviii) Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations
- xviii) Detailed Demolition Method Statement of the existing B4267 bridge and viaduct to include safeguards for water quality, biodiversity and Old Leckwith Bridge

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) and MD7 (Environmental Protection) of the Local Development Plan.

28. Prior to the commencement of any site clearance, demolition, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), a Construction Traffic Management Plan for that particular phase, shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall include details of parking for construction traffic, the proposed routes for heavy construction vehicles, timings of construction traffic and means of defining and controlling such traffic routes and timings. The development shall be carried out in accordance with the approved Management Plan.

Reason:

To ensure that the parking provision and highway safety in the area are not adversely affected by the construction of the development and to meet the requirements of Policies SP1 (Delivering the Strategy), MD2 (Design of New Developments) and MD7 (Environmental Protection) of the Local Development Plan.

29. The development shall be undertaken in full accordance with the recommendations of the Flood Consequences Assessment reference 7005-3561-C-RP-0003-07-FCA dated December 2022 including the mitigation detailed within part 6 with regard to habitable floor levels of the development Above Ordnance Datum (AOD) (Newlyn).

Reason:

To reduce the risk of flooding to the proposed development and future occupants, in accordance with the requirements of Policies SP1 and MD1 of the Adopted Local Development Plan 2011-2026 and TAN15- Development and Flood Risk

30. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), details of the finished levels of the site and dwellings in relation to existing ground levels shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that the visual amenity of the area is safeguarded and in the interests of flood risk, and to ensure the development accords with Policies MD2 and MD7 of the Local Development Plan.

31. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), an assessment of the nature and extent of contamination affecting that particular phase 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) Investigation of Potentially Contaminated Sites Code of Practice 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,
 - groundwater 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 / WG / NRW guidance document ' Land Contamination: A guide for Developers' (2017), 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 Policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

32. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), a scheme to investigate and monitor the site for the presence of gases (as defined within attached informative) being generated at the site or land adjoining thereto of that particular phase, including a plan of the area to be monitored, shall be submitted to the Local Planning Authority for its approval. Following completion of the approved monitoring scheme, the proposed details of any appropriate gas protection measures which may be required to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing to the LPA. All required gas protection measures shall be installed and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained and maintained until such time as the Local Planning Authority agrees in writing that the measures are no longer required.

Reason:

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

33. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), a detailed remediation scheme and verification plan to bring the phase of 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 / WG / NRW guidance document ' Land Contamination: A guide for Developers' (2017),, 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 and to ensure compliance with Policy MD7 of the adopted Local Development Plan 2011-2026.

34. The remediation scheme approved by condition 33 above, must be fully undertaken in accordance with its terms prior to the occupation or use of any part of the development within a particular phase. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be carried out in accordance with the approved details.

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 / WG / NRW guidance document ' Land Contamination: A guide for Developers' (2017),, 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 and to ensure compliance with Policy MD7 of the adopted Local Development Plan 2011-2026.

35. 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 Policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

36. Any topsoil [natural or manufactured], or subsoil, 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 Policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

37. 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 Policies SP1 (Delivering the Strategy) and MD7 (Environmental Protection) of the Local Development Plan.

38. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), an appropriate programme of historic building recording and analysis relating to any particular phase shall be completed 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 Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment) and MD8 (Historic Environment) of the Local Development Plan.

39. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), the Local Planning Authority shall be informed in writing of the name of a professionally qualified archaeologist who is to be present during the undertaking of any excavations in the development area so that a watching brief can be conducted. No work shall commence on that particular phase until the Local Planning Authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the Local Planning Authority within two months of the archaeological fieldwork being completed.

Reason:

To identify and record any features of archaeological interest discovered during the works, in order to mitigate the impact of the works on the archaeological resource, and to ensure compliance with Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment) and MD8 (Historic Environment) of the Local Development Plan.

40. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), a Bat Conservation Plan for that phase shall be submitted to and approved in writing by the Local Planning Authority and shall include:

- Details of impacts (direct and indirect) from the highway and bridge works upon any bat roosts identified within structures, buildings and trees on site.
- Details of measures to avoid potential harm to bats, including details of pre-commencement surveys or checks where required.
- Details of measures to mitigate the impacts upon bats, including details of the design and location of replacement roosts appropriate to the species and nature of the roosts identified.
- Details of timing, phasing and duration of construction activities and conservation measures.

The Bat Conservation Plan shall be carried out in accordance with the approved details thereafter.

Reason: To ensure that an approved species Conservation Plan is implemented, which protects species affected by the development and to ensure compliance with Policies MG19 and MD9 of the Development Plan.

41. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), an Otter Conservation Plan shall be submitted to and approved in writing which shall include:

- A plan of the vegetated buffer to be retained alongside the river showing the width of the buffer, extent and location of habitat to be retained and created.
- Measures to protect the buffer from human disturbance.
- Details of protective measures to prevent incidental killing, injuring or capture of otters during construction.
- An assessment of the impacts of the proposals upon otter. This should consider direct and indirect impacts and address the construction and operational phases. Clarification of the extent, distribution and structure of existing habitat; habitat lost, habitat to be retained, enhanced, and any habitat to be created; and an assessment of their condition and value for otter. A plan should identify these areas at an appropriate scale.
- Details of initial aftercare (if new habitat is to be created) and ongoing management proposals for the long-term maintenance of retained/created vegetation along the river bank as suitable for otter.

The Otter Conservation Plan shall be carried out in accordance with the approved details thereafter.

Reason:

To ensure that an approved species Conservation Plan is implemented, which protects species affected by the development in accordance with Policies MG19 and MD9 of the Development Plan.

42. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof) a wildlife habitat protection and enhancement plan for that phase for each species/species group identified within the Ecological Assessment dated November 2022 prepared by David Clements Ecology has been submitted to and approved in writing by the Local Planning Authority. The wildlife habitat protection and enhancement plan shall include details of the impacts of the mitigation required, locations and timings of clearance works and mitigation for each species detailed within the aforementioned document.

The wildlife habitat protection and enhancement plan shall be completed in accordance with the approved phasing and shall be retained at all times in accordance with the approved details.

Reason:

In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy), MG19 (Sites and Species of European Importance), MG20 (Nationally Protected Sites and Species) and MG21 (Sites of Importance for Nature, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species) of the Local Development Plan.

43. Prior to the commencement of development, a landscape, woodland and ecological enhancement, monitoring and management plan for the whole site lasting no less than 10 years (from the approval of the plan) to ensure that biodiversity is retained and enhanced on the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason:

To provide suitable biodiversity mitigation and enhancement on the site, in accordance with Policy MD9 (Promoting Biodiversity) of the Local Development Plan.

44. No site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), with the potential to impact on non-native invasive species (including Japanese knotweed or Himalayan balsam) shall commence until a site wide Biosecurity Risk Assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall include measures to control, remove or for the long-term management of Japanese knotweed and Himalayan balsam during site-clearance, construction and operation. The Biosecurity Risk Assessment shall be carried out in accordance with the approved details.

Reason:

To ensure that an approved Biosecurity Risk Assessment is implemented, to secure measures to control the spread and effective management of invasive non-native species at the site, in accordance with Policies MD7 and MD9 of the Development Plan

45. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason:

To prevent both new and existing development from contributing to or being put at unacceptable risk from or being adversely affected by unacceptable levels of water pollution in accordance with Policy MD7 of the Development Plan.

46. Prior to the commencement of any site clearance, construction works or development on any phase as agreed by condition 1 of this permission (or part thereof), details of piling or any other foundation designs using penetrative methods sufficient to demonstrate that there is no unacceptable risk to groundwater shall be submitted to and approved in writing by the Local Planning Authority. The piling/foundation designs shall be implemented in accordance with the approved details.

Reason:

To ensure there is no unacceptable risk to groundwater during construction and methods/design are agreed prior to the commencement of development or phase of development and to ensure compliance with Policy MD7 of the Development Plan

47. Prior to the beneficial occupation of any phase of development as agreed by condition 1 of this permission (or part thereof), a scheme (including details of the timing of such provision) for the provision and maintenance of Public Open Space (including any children's play equipment) for that phase of development shall be submitted to and approved in writing by the Local Planning Authority, and the public open space shall thereafter be provided and retained in accordance with the agreed details.

Reason:

To ensure the timely provision of open space in the interests of the amenity of future occupiers and the wider area and to ensure compliance with Policies MD2 and MD5 of the Local Development Plan.

48. No development (including site clearance and demolition) shall take place until a Condition Survey of an agreed route along the adopted highway has been submitted to and approved in writing by the Local Planning Authority. The extent of the area to be surveyed must be agreed with the Local Highways Authority prior to the survey being undertaken. The survey must consist of:

- A plan to an appropriate scale showing the location of all defects identified within the routes for construction traffic
- A written and photographic record of all defects with corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey

No building or use hereby permitted shall be occupied or the use commenced until any damage to the adopted highway has been made good to the satisfaction of the Highway Authority.

Reason:

To ensure that any damage to the adopted highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer in accordance with Policy MD2 (Design of New Developments) of the Local Development Plan.

49. Within 1 month following the completion of the development, a Second Condition Survey along the route agreed under Condition 48 shall be submitted to and approved in writing by the Local Planning Authority. The Second Condition Survey shall identify any remedial works to be carried out which are a direct result of the development and shall include the timings of the remedial works. Any agreed remedial works shall thereafter be carried out at the developer's expense in accordance with the agreed timescales.

Reason:

To ensure that any damage to the adopted highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer in accordance with Policy MD2 (Design of New Developments) 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 and Future Wales – the National Plan 2040. In accordance with Regulation 25(1) of The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, the Local Planning Authority has examined the environmental information submitted with this application.

Having regard to Policies SP1 'Delivering the Strategy'; SP2 'Strategic Sites'; SP3 'Residential Requirement'; SP4 'Affordable Housing Provision'; SP7 'Transportation'; 'SP10 – Built and Natural Environment'; MG1 'Housing Supply in the Vale of Glamorgan'; MG4 'Affordable Housing'; MG16 'Transport Proposals'; MG17 'Special Landscape Areas'; MG19 'Sites and Species of European Importance'; MG20 'Nationally Protected Sites and Species'; MG21 'Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species'; MG22 'Development in Minerals Safeguarding Areas'; MD1 'Location of New Development'; MD2 'Design of New Development'; MD4 'Community Infrastructure and Planning Obligations'; MD6 'Housing Densities'; MD7 'Environmental Protection'; MD8 'Historic Environment', MD9 'Promoting Biodiversity' and MD16 'Protection of Employment Sites'

Having regard to the Council's duties under the Equality Act 2010 the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic.

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.

The appropriate marine policy documents have been considered in the determination of this application in accordance with Section 59 of the Marine and Coastal Access Act 2009.

NOTE:

- * 'Gases' include landfill gases, vapours from contaminated land sites, and naturally occurring methane and carbon dioxide, but does not include radon gas. Gas Monitoring programmes should be designed in line with current best practice as detailed in CIRIA 665 and or BS8485 year 2007 Code of Practice for the Characterization and Remediation from Ground Gas in Affected Developments.**

- 2. In accordance with the advice of the National Assembly for Wales regarding development of contaminated land I am giving you notice that the responsibility for safe development and secure occupancy of a site rests with the developer. Whilst the Council has determined the application on the information available to it, this does not necessarily mean that the land is free from contamination.**
- 3. 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.**
- 4. Warning: An European protected species (EPS) Licence is required for this development.
This planning permission does not provide consent to undertake works that require an EPS licence.
It is an offence to deliberately capture, kill or disturb EPS or to recklessly damage or destroy their breeding sites or resting places. If found guilty of any offences, you could be sent to prison for up to 6 months and/or receive an unlimited fine.
To undertake the works within the law, you can obtain further information on the need for a licence from Natural Resources Wales on 0300 065 3000 or <https://naturalresources.wales/permits-and-permissions/species-licensing/when-you-need-to-apply-for-a-protected-species-licence/?lang=en>.**

**Development should not be commenced until the Applicant has been granted a licence by Natural Resources Wales pursuant to Regulation 55 of the Conservation of Habitats and Species Regulations (2017) authorizing the specified activity/development to go ahead.
We may wish to discuss aspects of the proposed bat mitigation with the applicant in more detail at the EPS licence application stage. Please note that any changes to plans between planning consent and the EPS licence application may affect the outcome of the licence application.**
- 5. You are advised that there are species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**
- 6. Bats must not be disturbed or destroyed during tree work. A full visual inspection of the trees to be worked on must be carried out prior to intended work to check for the presence of bats. Advice on bats and trees may be obtained from the Natural Resources Wales (Countryside Council for Wales as was). Bats may be present in cracks, cavities, under flaps of bark, in dense Ivy and so forth. Should bats be identified, please contact either Natural Resources Wales on 0845 1306229 or the Council's Ecology Section on 01446 704627.**

- 7. You should note that the building may constitute a breeding or resting place (roost) for bats, both of which are protected by law through UK legislation under the Wildlife and Countryside Act (1981) (as amended) and through European legislation under the Habitats Directive (EC Directive 92/43/EC), enacted in the UK through the Conservation Regulations (1994) (as amended). This legislation makes it an absolute offence to either damage or destroy a breeding or resting place (roost), to obstruct access to a roost site used by bats for protection and shelter, (whether bats are present at the time or not) or to intentionally or recklessly disturb a bat/bats within a roost. It is recommended that a full bat survey of the building/ site (including trees) be conducted by a licensed bat surveyor to ascertain presence or absence of bats/bat roosts. In the event that the survey reveals the presence of bats/roosts, further advice must be sought from Natural Resources Wales on 0300 065 3000 or the Council's Ecology Section on 01446 704855.**
- 8. In accordance with Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, the Local Planning Authority took into account all environmental information submitted with this application.**
- 9. You will need to apply for Flood Risk Activity Permit from NRW. All Permit applications must be approved prior to the commencement of any works and due to the stand-alone nature of the legislation must be sought alongside any granted planning permission.
Please contact Carl Llewellyn at carl.llewellyn@cyfoethnaturiolcymru.gov.uk to discuss the Flood Risk Activity Permit requirements. Please see our website for further details: <https://naturalresources.wales/permits-and-permissions/flood-risk-activities/flood-risk-activity-permits-information/?lang=en>**
- 10. You will note that a condition has been attached to this consent and refers to an archaeologist being afforded the opportunity to carry out a watching brief during the course of developments. It would be advisable to contact the Glamorgan-Gwent Archaeological Trust, at Heathfield House, Heathfield, Swansea, SA1 6EL. Tel: (01792 655208) at least two weeks before commencing work on site in order to comply with the above condition.**
- 11. 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.**
- 12. New developments of more than one dwelling or where the area covered by construction work equals or exceeds 100 square metres as defined by The Flood and Water Management Act 2010 (Schedule 3), will require SuDS Approval Body (SAB) approval prior to the commencement of construction.**

Further information of the SAB process can be found at our website or by contacting our SAB team: sab@valeofglamorgan.gov.uk

- 13. The applicants are reminded of the requirement for compliance in full with the conditions imposed upon the outline planning permission.**
- 14. This development is on adopted highway and therefore a Highway Extinguishment under the Highways Act 1980 will be required before work can commence. For further details please contact the Highways Department, The Vale of Glamorgan Council, The Alps, Wenvoe, Cardiff; CF5 6AA. Telephone No. 02920 673051.**
- 15. The applicant/developer will be required to enter into a legally binding agreement with the Vale of Glamorgan County Council and Cardiff Council to secure the proper implementation of the proposed highway works, connections with the existing highway network and associated works which shall incorporate the appropriate bond.**

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.



NOTES

1. WHERE TOPOGRAPHICAL SURVEY INFORMATION IS MISSING, ASSUMED CONTOURS ARE SHOWN IN DASHED LINE.
2. PLACED LINES OF HIGH BANK UNKNOWN IN PLACES DUE TO DIFFICULTY OF ACCESS.
3. EXISTING INFORMATION IS BASED ON TOPOGRAPHICAL SURVEY - WHERE SURVEY INFO IS NOT AVAILABLE, INFORMATION IS BASED ON OS DATA.

2020/01218/HYB

KEY

- PLANNING SITE BOUNDARY
- EXTENT OF WATERSHIP
- ADMINISTRATIVE BOUNDARY

REVISIONS

A 02.12.2022 JAS

FOR INFORMATION

1844/S.101A

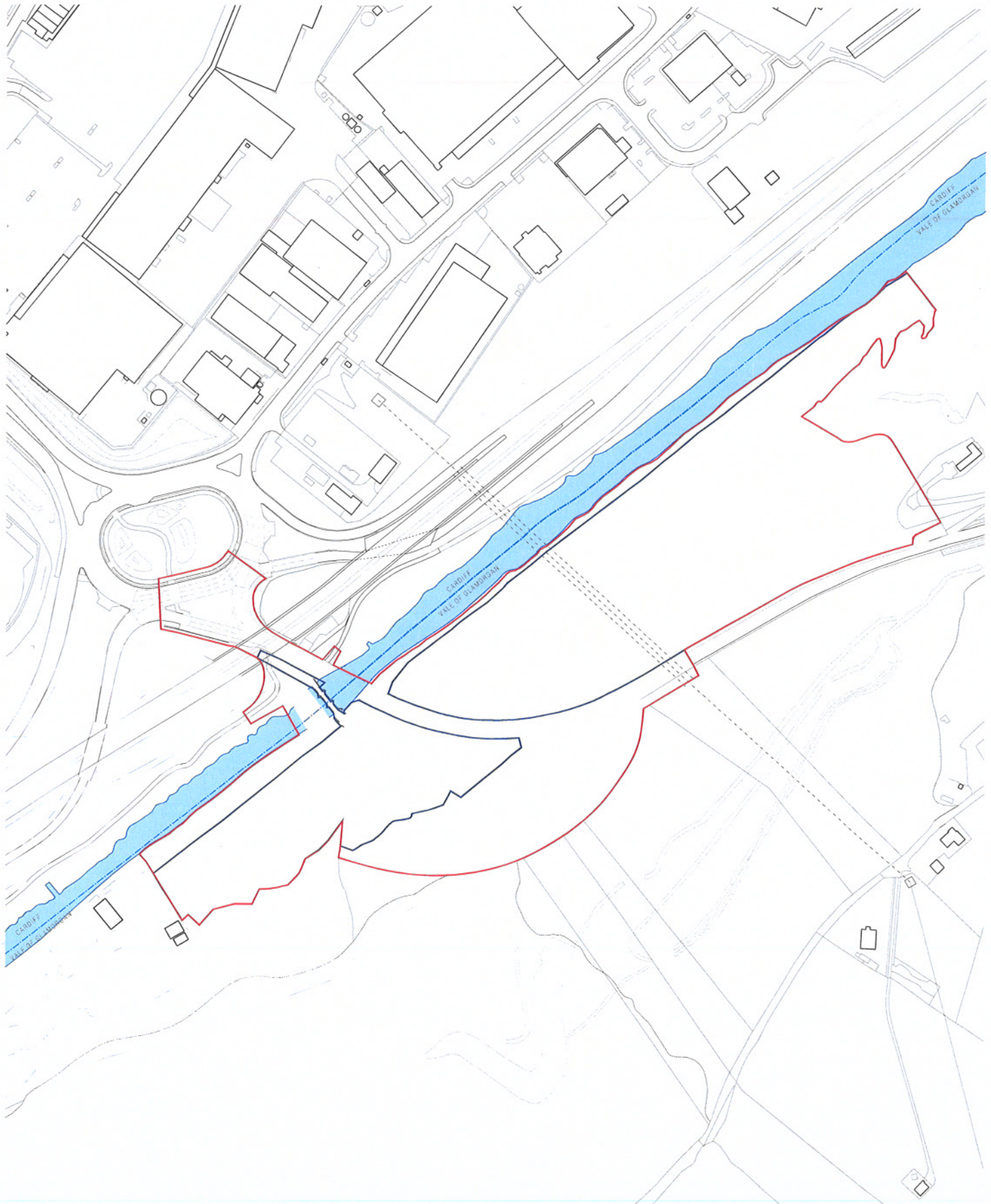
LECKWITH QUAY

SITE LOCATION PLAN

1:2500@A3 DEC 22

LOYN + CO
ARCHITECTS

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2021/00476/FUL Received on 27 April 2023

APPLICANT: Westbourne School Hickman Road, Penarth, CF64 3EF

AGENT: Mr Liam Griffiths Unit 9, Oak Tree Court, Cardiff Gate Business Park, Cardiff, CF23 8RS

GM2 House, Plymouth Road, Penarth

Full planning application for a proposed 2 storey extension 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 for determination by the following Members :

- Cllr Ernest for the reason that the application will have a substantial effect on the amenities of the closely adjacent Retirement Home, Jubilee Court;
- Cllr Rhys Thomas given the public interest in the application and
- Former Cllr McCaffer had raised general concerns over the application.

EXECUTIVE SUMMARY

The application site is an existing two storey building, known as Westbourne Board House used to board children, who attend Westbourne School, located on the western side and at the northern end of Plymouth Road, to the south of the Penarth Town Centre. The railway line is located to the west of the site and immediately to the north is a parking area and a Penarth Jobcentre and other commercial uses within Charnwood House. To the south the site is Cwrt Jubilee, a three storey block comprising of retirement flats with a small car parking area intervening. The site is outside, but adjacent to Penarth Conservation Area and within the settlement of Penarth as defined by the Vale of Glamorgan Local Development Plan 2011-2026.

This is a full planning application, as amended, for planning permission for a 2 storey extension and associated works to the existing Westbourne Boarding House to provide an additional 22 rooms with 28 bed spaces for the boarding the pupils of Westbourne School. The extensions would wrap around the southern and western elevations of the building and will broadly have an L shaped footprint. The proposed extension will comprise of red brick for the main building, with darker red for recessed panels, grey vertical cladding to roof and grey upvc windows.

To date a total of 23 letters of objection have been received, in addition to a petition. The objections received relate in the main, to concerns in respect of the overdevelopment of the site, design, scale and form not in keeping with the area / Conservation Area, impact on amenity of neighbouring properties including loss of light, loss of privacy and overbearing impact, noise and antisocial behaviour, access and parking issue problems and access arrangements to Cwrt Jubilee.

The main issues involved in the assessment of the application, relate to the acceptability of the siting and design of the extensions and the impact on the character of the area. Other

considerations include the impact on residential amenity and privacy, parking, highway safety, environmental impacts, ecology and drainage.

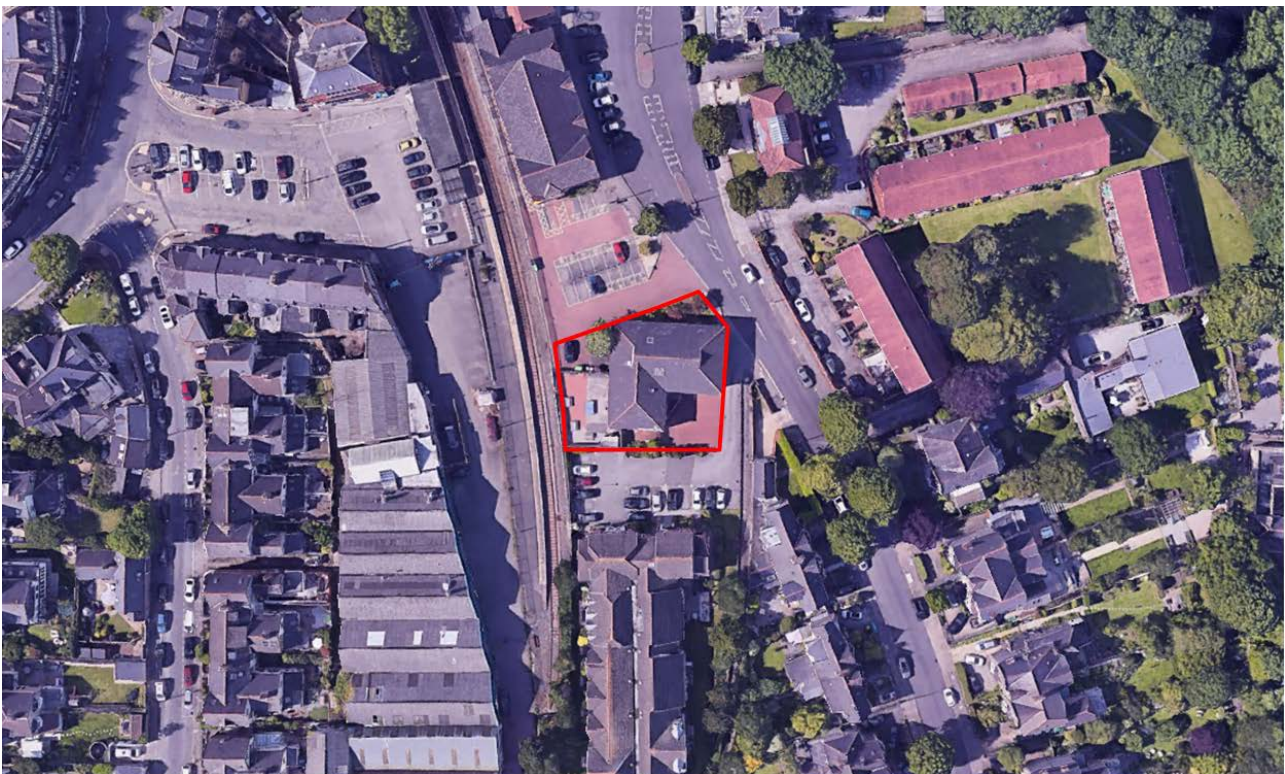
The application is recommended for approval subject to conditions.

SITE AND CONTEXT

The application site is an existing two storey building, known as Westbourne Board House at GM2 House, located on the western side and at the northern end of Plymouth Road, to the south of the Penarth Town Centre. The existing building is used to board children, who attend Westbourne School, located approximately 120m to the north of the site off Stanwell Road. The existing building was built in the 1990s, originally as an office block and comprises of an L shaped building with a Dutch gable roof, with red brick elevations with an upper band of render.

The railway line is located to the west of the site, with commercial use further to the west. Immediately to the north of the site is a parking area and a Penarth Jobcentre and other commercial uses within Charnwood House. To the south of the site is Cwrt Jubilee, a three storey block comprising of retirement flats with a small car parking area intervening. On the other side of Plymouth Road, to the east (and within Penarth Conservation Area) is Roxborough Garden Court a 1970's three storey town house development. From this point southwards, the road mainly comprises of stone Victorian Semi detached dwellings on both sides of the tree lined road.

The site is outside, but adjacent to Penarth Conservation Area and within the settlement of Penarth as defined by the Vale of Glamorgan Local Development Plan 2011-2026.



DESCRIPTION OF DEVELOPMENT

The application, as amended is for planning permission for a 2 storey extension and associated works to the existing Westbourne Boarding House to provide an additional 22 rooms with 28 bed spaces for boarding the pupils of Westbourne School.

The extensions would wrap around the southern and western elevations of the building and will broadly have an L shaped footprint. Along the southern elevation, the extension will have a width of circa 30 metres with a cranked frontage and set back elements. This part of the extension will have a maximum depth of 7.1m, which will reduce down to 3m. The west facing elevation will be some 19m in width by a depth of 5.3m, which will increase in width where it abuts the existing building and the southern extension. The extensions will have a general eaves height of some 5m and ridge height of 7m. The extensions will have two hipped roofs which will be separated by a flat roof section where the extensions abut the existing building.

The ground floor accommodation will comprise of 12 dormitory rooms in addition to a communal room, WCs and shower rooms, with stairs leading to the first floor accommodation comprising of 12 dormitory rooms. Six of the rooms will have twin beds

The proposed extension will comprise of red brick for the main building, with darker red for recessed panels, grey vertical cladding to roof and grey upvc windows.

The proposal will not alter vehicle access into the site from the existing arrangements off Plymouth Road to the east. The proposal will result in the loss of circa 5 parking spaces which are not formally laid out. The proposals will not result in the loss of the formal car parking area set out to the north of the building.

Existing elevations of the building are shown below:



Existing elevation fronting Plymouth Road (left) and from car park to north (right)



Existing west elevation as viewed from railway (left) and existing south elevation from shared car park with Cwrt Jubilee

Elevations of the proposals (as amended) are shown below:



Proposed elevation from Plymouth Road



Proposed elevation from north (staff car park)



Proposed west elevation (from railway)



Proposed southern elevation



Proposed Ground Floor Plan



Proposed First Floor Plan



Proposed Site Plan

PLANNING HISTORY

1974/01345/FUL, Address: Plymouth House, Plymouth Road, Penarth, Proposal: Three Storey office block connected to existing block, Decision: Approved

1983/00040/OUT, Address: Rear of Plymouth House, Plymouth Road, Penarth, Proposal: 2,960 square metres of offices and associated car parking, Decision: Refused

1989/00618/FUL, Address: Plymouth House, Plymouth Road, Penarth, Proposal: Provide 4 temporary structures for office use for approx. 2 years whilst new offices are being built, Decision: Approved

1990/00286/FUL, Address: Wallace Evans Building, Plymouth Road, Penarth - Adjacent to, Proposal: To form an extension to the existing premises for office space with additional car parking, Decision: Approved

1992/00341/ADV, Address: Plymouth House, Plymouth Road, Penarth, Proposal: Company name/logo/profession, Decision: Refused

1992/00356/FUL, Address: Plymouth House, Plymouth Road, Penarth, Proposal: 4 no. temporary structures for office use, Decision: Approved

1992/00362/FUL, Address: Plymouth House, Plymouth Road, Penarth, Proposal: Enclose existing recess/courtyard to create additional office accommodation on ground, first & second floors, Decision: Approved

1997/00773/ADV, Address: Drake House, Plymouth Road, Penarth, Proposal: Shop sign - flat with overhead lighting, Decision: Approved

2000/01389/FUL, Address: Plymouth House, Plymouth Road, Penarth, Proposal: Erection of 44 sheltered apartments including House Managers accommodation (duplicate application), Decision: Approved

2001/01042/FUL, Address: Plymouth House, Plymouth Road, Penarth, Proposal: New entrance, making good junction of existing and demolished buildings and internal alterations, Decision: Approved

2001/01324/ADV, Address: Land at Plymouth Road, Penarth, Proposal: Site sales board, Decision: Approved

2002/00855/FUL, Address: Plymouth House, Plymouth Road, Penarth, Proposal: Demolish existing lean-to structure. New entrance porches and rooflights and reorganisation of parking arrangements, Decision: Approved

2002/01229/ADV, Address: GM2 House, Plymouth Road, Penarth, Proposal: Permission to display illuminated sign, Decision: Approved

2003/00248/ADV, Address: Jubilee Court, Plymouth Road, Penarth, Proposal: Two free standing signs, Decision: Approved

2004/01715/FUL, Address: GM2 House, Plymouth Road, Penarth, Proposal: Demolition of the existing two storey pitched roof GM2 house. Erection of a residential building of 25 apartments with associated undercroft car park and ground floor with split level residential unit and commercial unit, Decision: Refused 13 July 2006 for the following reasons :

- 1. The proposed development because of its overbearing scale, form and siting in close proximity to existing residential properties, would constitute an incongruous form of development which would be detrimental to the residential and visual amenities of the area and the adjoining part of the Penarth Area. As a consequence, the proposal is considered to be contrary to Policies ENV17, ENV20 and ENV27 of the Vale of Glamorgan Adopted Unitary Development Plan 1996 - 2011.*
- 2. The proposal amounts to an overdevelopment of the site, which is deficient in usable car parking provision, and amenity space. As a consequence, the proposal would cause harm to the amenities of future occupants, and will result in an exacerbation of parking problems in the area to the detriment of highway safety. The proposal is therefore contrary to Policy ENV27 and HOUS8 of the Vale of Glamorgan Adopted Unitary Development Plan 1996 - 2011 and the Council's Supplementary Planning Guidance 'Amenity Standards'.*

A subsequent appeal was dismissed on 8 January 2007.

2008/00021/FUL, Address: GM2 House, Plymouth Road, Proposal: Erection of 4 storey mixed use building, plus semi basement parking for 17 cars. Accommodation comprises 14 apartments, 3 mews houses and commercial unit, Decision: Refused 10 July 2009 for the following reasons :

1. *The development will result in a substandard access to serve the development which will be to the detriment of highway and pedestrian safety and therefore the development does not accord with Policies HOUS2 - Additional Residential Development; HOUS8 - Residential Development Criteria; and ENV27 - Design of New Developments of the Vale of Glamorgan adopted Unitary Development Plan 1996-2011.*
2. *The development fails to meet the Local Planning Authority's adopted standards for the provision of amenity space or on-site parking provision and makes no provision for public open space or sustainable transport facilities and thus fails to meet the requirements of Policies ENV27 - Design of New Developments; TRAN10 - Parking and REC3 - Provision of Open Space Within Residential Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.*
3. *The developer has failed to make provision for public art in relation to the development and therefore fails to meet the requirements of Policy ENV27 - Design of New Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and adopted Supplementary Planning Guidance Public Art.*
4. *The development will generate a need for school placements and will require expansion of existing school provision with no provision being made for that expansion. The development, therefore, fails to meet the requirements of Policy ENV27 - Design of New Developments of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.*

A subsequent appeal was dismissed on 9 June 2010.

2011/00623/FUL, Address: GM2 House, Plymouth Road, Penarth, Proposal: Change of use of ground floor from office (Class B1) to student accommodation/student boarding house (Class C1), with associated works and parking, Decision: Approved

2013/00453/FUL, Address: GM2 House, Plymouth Road, Penarth, Proposal: Change of use of first floor from office (Class B1) use to student accommodation/student boarding house (Class C1) use, Decision: Approved

CONSULTATIONS

Penarth Town Council were consulted on the original proposal and raised an 'Objection on the grounds of the proposed development being excessively large in scale and disproportionate design'

Following re-consultation on the final amended scheme, have responded stating "that the application should be approved, subject to the case officer being satisfied with the level of overlooking towards the neighbouring properties."

The Council's Highway Development section was consulted on the original scheme and note that the proposals will reduce the off-street parking available to 4 spaces, and note that given students will not have their own vehicles and limited visitors during term time, the level of parking proposed for staff/occasional visitors is acceptable. They do however raise concern with regard to the beginning and end of terms when students are arriving/departing. As such they note they have no objection subject to allocation of time slots for students on pick up drop off days and that information is provided to students with regard to public transport options.

Following re-consultation in respect of the final amended scheme the highway engineer notes that the plans have changed slightly with the re-orientation of the proposed extension for student accommodation for Westbourne School.

The proposals are not envisaged to remove any dedicated parking bays and it is unlikely that the proposals will have a detrimental impact on the surrounding highway network. Therefore, the original highway comments are still applicable.

Councils Drainage Section were consulted and have responded stating that the site is not located in DAM zones at risk of tidal or fluvial flooding and NRW maps indicate that there is a very low risk of surface water flooding to the site. As the area for this development is over 100 sq m, this application is subject to SAB approval prior to any commencement of work. Although some drainage information has been submitted with this application, a full drainage plan will need to be provided and reviewed. An advisory note is requested as the development will require SuDS Approval Body (SAB) approval prior to the commencement of construction.

Shared Regulatory Services (Pollution Control) were consulted on the original application and recommend that the garden terrace use is restricted from 9am to 9pm with no music audible beyond the boundary of the property

Following re-consultation in respect of the amended scheme have in summary requested a Construction Environmental Management Plan (CEMP); no burning of waste, or other materials, shall take place on site so to so to protect residential amenity and prevent nuisance and no use of security lighting and generators on site outside normal construction hours.

Due to the potential for noise disturbance to local residents, the development should be subject to the following hours of operation, restrictions should include deliveries;

Monday – Friday	8:00 until 18:00
Saturday	8:00 until 13:00
With no Sunday or Bank Holiday working	

Should there be a requirement to undertake foundation or other piling or drilling on site to accommodate on site surface water drainage or other works it is advised that these operations are restricted to:

Monday – Friday	8:30 until 17:30
Saturday and Sunday	Nil

As well as advised above regarding noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour, the applicant should take into account the risk of asbestos containing building materials during the demolition works required with appropriate surveying and removal being undertaken.

Dwr Cymru / Welsh Water was consulted and in respect of the final amended scheme have advised that the proposed development site is crossed by a public sewer. In accordance with the Water Industry Act 1991, Dwr Cymru Welsh Water requires access to its apparatus at all times in order to carry out maintenance and repairs. However, having regard to the proposed site plan, it appears the proposed development would be situated within the protection zone of the public sewer measured 3 metres either side of the centreline. We kindly request the applicant contact our Build Over Sewer Team on 0800 917 2562 to establish if a Build Over Sewer application will be required / likely to be approved.

Alternatively, it may be possible to divert the sewer if the developer applies under Section 185 of the Water Industry Act or we recommend the proposed development is repositioned to accommodate for the required protection zone.

They have requested a condition to ensure that no development shall take place until details of a scheme to protect the structural condition of the public sewer crossing the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed design, construction method statement and risk assessment outlining the measures taken to secure and protect the structural condition and ongoing access of the public sewer. No other development pursuant to this permission shall be carried out until the approved protection measures has been implemented and completed. The approved scheme shall be adhered to throughout the lifetime of the development and the protection measures shall be retained in perpetuity.

In addition, an Advisory Note is also requested in respect of a sustainable approach in considering water supply; that 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 and 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.

Network Rail were consulted and have raised no objection in principle to the proposal and have provided comments with regard to asset protection including fencing, covenants on land given previous British Rail ownership; drainage features being further than 5m from Network Rail land; alterations to ground levels; piling; foundations; drainage; ground disturbance; recommendation that buildings be at least 2 metres from boundary fence; control on location of plant and lighting.

South Wales Police - Designing Out Crime Officer was consulted and has provided comments in respect of perimeter security; footpath to entrance points of the accommodation should be well lit; control of planting height; parking area should be lit, CCTV; need for surveillance, management plan; bin and cycle storage should be lockable, ensure recessed areas are eliminated; access control should be managed robustly; ground floor windows and those easily accessible must comply with PAS 24: 2022 or equivalent.

Plymouth Ward Members were consulted and comments were received from a former Councillor, Councillor McCaffer, requesting that the application be reported to committee.

Following re-consultation on the amended scheme, **Cllr Ernest** has requested that the application be call into Planning Committee for determination and has stated that despite the applicant's amended proposals, remains concerned about the size and bulk of the development, the loss of all parking spaces (in a heavily parked on -street area), and the likely impact on the amenities currently enjoyed by the elderly residents of the adjacent Residential Home, the application fails to satisfy those matters.

Cllr Rhys Thomas has also requested that the application be call into Planning Committee for determination.

REPRESENTATIONS

The neighbouring properties were consulted on 29 April 2021 and 22 September 2021. In addition site notices were also displayed on 11 May 2021 and 13 October 2021. Some 16 letters of representation and a petition had been received raising the following:

- Loss of parking spaces and resulting traffic implications
- Impact upon access/safety to occupiers of Cwrt Jubilee given lack of footpaths and restricted access for emergency vehicles
- Out of character including incongruous flat roof design, excessive height, loss of visual break and scale
- Overdevelopment of site
- Impact upon Penarth Conservation Area
- Safety risk for future occupiers from use of roof garden and question suitability for children
- Noise impact from use of roof garden
- Impact upon amenity of neighbouring properties including from loss of light, loss of privacy and overbearing impact
- Potential health risks near to retirement complex
- Loss of trees and shrubs
- Concern over use of access by delivery vehicles during construction
- Similar schemes previously dismissed at appeal
- Issues viewing plans online

Following re-consultation on the final set of amended plans, a further 7 letters of representation have been received which continue to raise the same objections as broadly set out above, in respect of the overdevelopment of the site, design, scale and form not in keeping with the area, impacts on privacy, noise and antisocial behaviour, exacerbation of parking problems and access arrangements to Cwrt Jubilee.

In addition, a 30 name petition has also been submitted from the residents of Cwrt Jubilee, objecting to the amended proposal, on the following grounds (summarised) :

- It would severely restrict access to all residents, visitors, public or private services and most importantly ambulances and emergency vehicles.
- The proposed aesthetic is not in keeping with the area or the immediate neighbouring dwelling.

- It has not sufficiently removed the issues with overlooking from the windows into the residential properties on Cwrt Jubilee.

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 Vale of Glamorgan Adopted Local Development Plan 2011-2026 forms the local authority level tier of the development plan framework. The LDP 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 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
POLICY MD9 – Promoting Biodiversity

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

Future Wales: The National Plan 2040:

Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process. The following chapters and policies are of relevance in the assessment of this planning application:

Chapter 3: Setting and achieving our ambitions

- 11 Future Wales' outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

Policy 1 – Where Wales will grow

- Supports sustainable growth in all parts of Wales.
- Development in towns and villages in rural areas should be of an appropriate scale and support local aspirations and need.

Policy 6 – Town Centre First

- Sequential approach for new commercial, retail, education, health, leisure and public service facilities.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales,

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Previously Developed Land

Chapter 6 - Distinctive and Natural Places

- Recognising the Special Characteristics of Places (The Historic Environment, Green Infrastructure, Landscape, Biodiversity and Ecological Networks, Coastal Areas)
- Recognising the Environmental Qualities of Places (water and flood risk, air quality and soundscape, lighting, unlocking potential by taking a de-risking approach)

Technical Advice Notes:

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

- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 24 – The Historic Environment (2017)

Welsh National Marine Plan:

National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals within the Marine Plan Area for Wales.

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:

- Parking Standards (2019)
- Penarth Conservation Area
- Residential and Householder Development (2018)
- Penarth Conservation Area Appraisal and Management Plan
- Biodiversity and Development (2018)

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
- Section 58 (1) of the Marine and Coastal Access Act places a requirement on the Council to take authorisation decisions in accordance with the appropriate marine policy documents, unless relevant consideration indicates otherwise.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council's duty under the above Act has been given due consideration in the preparation of this report.

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

Background

Planning permission was granted under ref. 2011/00623/FUL and 2013/00453/FUL, respectively for the change of use of ground floor and first floor office (Class B1) to student accommodation/student boarding house (Use Class C1) associated with Westbourne School.

Consideration should also be given to the earlier planning history at the site, particularly the two planning applications which sought to demolish the existing building and construct a 25 apartment block with ground floor commercial over 5 floors and application ref. 2004/01715/FUL and the subsequent application for 14 apartments, 3 mews houses, and commercial unit under application ref 2008/00021/FUL. Both of these planning applications were refused and dismissed at appeal. In this regard whilst these schemes are materially different, in both size and scale and use, to what is now being proposed, some of the considerations and comments by the Inspector particularly in respect of the impact on neighbouring occupiers are considered relevant in the consideration of this application.

Principle of Development

The proposal seeks to provide additional boarding accommodation for pupils as an extension of the existing established use of the building for pupil boarding.

The site is located within the Service Centre Settlement of Penarth, where the LDP under Policy SP1 (Delivering the Strategy) seeks to reinforce the role of service centre settlements as providers of cultural, commercial and community services. The development is proposed to support the on-going operation of an educational establishment, providing ancillary accommodation for students.

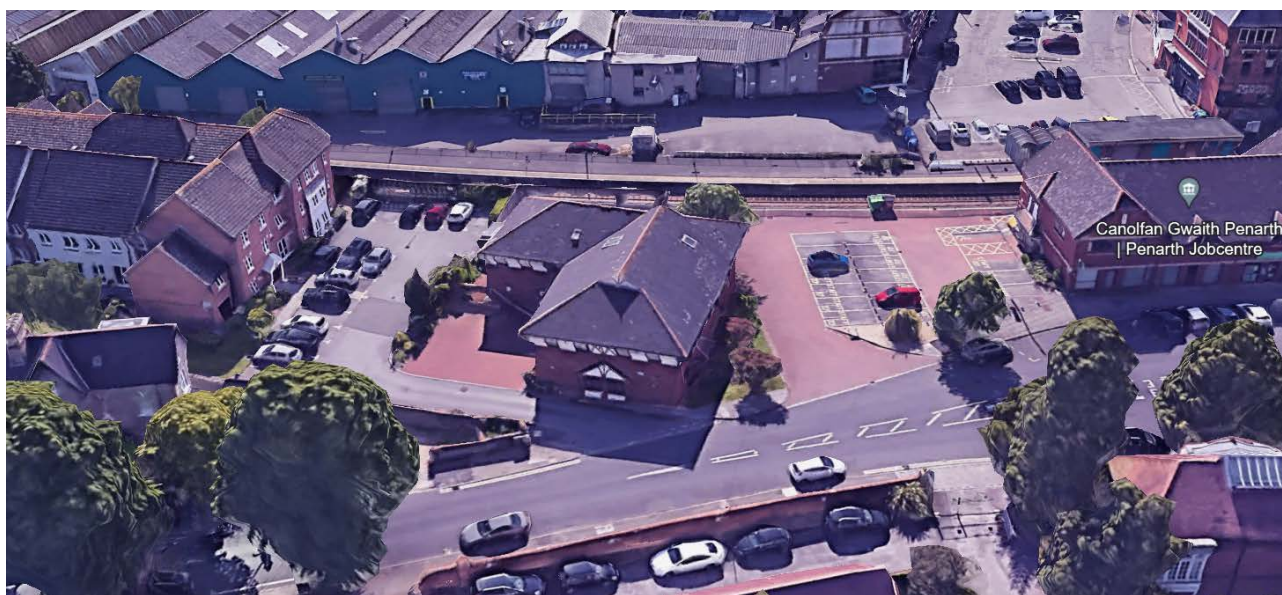
The building is located in an area which is at a transitional point between the residential areas to the south and the town centre to the north, where there is a mix of residential, and commercial and educational uses. The location is highly sustainable due to its close proximity to public transport links and the nearby Penarth Railway Station and shops etc. It is also noted that the building is in close proximity to Westbourne School, some 120m to the north of the site off Stanwell Road.

Therefore the expansion of the existing accommodation is considered acceptable in principle in relation to the sustainability principles of Policy MD1 – Location of New Development, subject to and on the basis that all other policy considerations can be satisfied. To control the nature of the use it is considered appropriate that a suitable condition is imposed that restricts the occupancy of the building solely to students of the college (**Condition 14** refers).

Impact upon character

Policy MD5- Development within Settlement Boundaries and the general design criteria set out in Policy MD2- Design of New Development require proposals to be of a high standard of design and respond appropriately to the scale, form and character of the neighbouring buildings, while minimising the impact upon adjacent areas. These sentiments are supported by Planning Policy Wales (Edition 11) and TAN12- Design (2016).

The site, is located at the northern end of Plymouth Road, the western side of which comprises of a series of modern buildings circa 1990's, predominantly two storey, albeit Cwrt Jubilee is a three storey block located to the south.



3D Aerial photo looking westwards towards application site – Source Google Earth

There are industrial units to the western side of the railway line and more traditional development with the nearest property being 1 Plymouth Road, that falls within the Penarth Conservation Area. Whilst the property itself falls outside of the Conservation Area, the boundary runs along the eastern boundary of the site.

It is acknowledged that the existing building is of limited architectural merit, albeit two storey in height with a large Dutch gable roof and is somewhat characteristic of the architectural approach to commercial buildings in the 1990's. The building is considered to have a neutral contribution to the character of the area. Therefore whilst there are no special features of the existing building that should be retained, the main consideration is that any extensions to the building are acceptable in terms of their scale, form and design and reflect the context of the site and character of neighbouring buildings.

Furthermore, whilst the site lies outside of the Penarth Conservation area, it is adjacent to it and the most direct / immediate views of the site are from within the Conservation Area. As such consideration should still be given on the potential impacts on the character and setting of this part of the Penarth Conservation Area.

Given the somewhat open aspect of the site, all elevations of the existing building are visible and therefore, by implication any form of extension would also be visible from the northern part of Plymouth Road, the railway line, from various viewpoints along Stanwell Road as well as views from the east, at Station Approach.

The planning application was originally submitted on the 1st April 2021 and originally proposed a 3 storey flat roof extension which had a roof terrace on the southern elevation of the building. Officers raised concerns primarily in respect of the impacts of the flat roof 3 storey building, due to its height and resulting prominence and impact on the character of the area. In addition concern was also raised in respect of the impacts of this extension, due to window placement, on the privacy and amenities of the occupiers of Cwrt Jubilee to the south.



First design iteration – 3 storey flat roof extension



Second design iteration – 3 storey pitched roof extension

The second design iteration sought to provide a pitched roof in place of the flat roof, but was also considered harmful and out of keeping with the character of the area. The proposed scheme evolved on the basis that the authority would not support an extension for more than two stories to the south elevation of the building and as such the proposals progressed with the provisions of an extension to the west as well as the south.



Third design iteration – 2 / 3 storey extension to south and west of the original building

The final proposal, unlike that shown above, is for a two storey extension throughout with pitched roof and hipped extension to south and west of the original building.



CGI Perspective View from Railway Walk

The final scheme has evolved in respect of its design, not only to reduce the massing and impact on the character of the area but also in respect of how the south elevation addresses Cwrt Jubilee, particular in respect of window placement. The impact on the occupiers of Cwrt Jubilee are considered below, however, during discussions a number of options were presented to address overlooking, such as the use of obscure glazing or cowed / angled windows. However, whilst these may have resolved overlooking, they would have resulted in a building with a poorly detailed and monotonous design and the elevations previously proposed were poorly articulated and lacked interest. For instance the southern elevation of approximately 30 metres in width, was originally shown to comprise of nominal setbacks to break up its mass and a number of obscure glazed windows of uniform style and design. Although this element principally faces the car park serving Cwrt Jubilee, there is a publicly accessible footpath running along the side of the site in addition to views from Plymouth Road.

The final scheme has sought to reconfigure the internal layout where the boarding rooms will be laid out with in a linear corridor with windows looking northwards, westwards or eastwards, depending on which side of the building rooms are on. As such the only windows on the south elevation are those which serve the corridor / landing at ground and first floor level. It is accepted that this has resulted in what is a wide elevation with limited fenestration. However, these are designed as feature full height windows to each floor. Moreover, these windows are set within a darker feature brick panel. In addition, the architect has broken up the elevation with the use of contrasting bricks, set back darker brick panels and the use of a pattern of protruding bricks, all of which adds depth and a richness to the façade in what would otherwise be a wide largely blank elevation. The same detailing is also shown on the other elevations.



CGI Perspective View from Plymouth Road to north of site

The proposed extension will be the same eaves height as the existing building with a lower ridge height. The south and west facing extensions, having regard to their resulting scale and massing, would not unacceptably impact on the character of the existing building. The use of hipped roof forms linked by a central flat roof section is considered an acceptable design approach. This is particularly so noting the difficulties in achieving a connected pitched roof at the pivot point around the corner of the existing building and the axis on which the extensions are to be built, where the west facing extension is parallel to the boundary of the site and railway line and not the building.

The alignment of the west facing elevation is such that the separation from the side of the building results in a grassed entrance area with central footway leading to the entrance into the proposed extension.

In terms of the wider impacts, as shown in the CGI perspective views, the extension which appears at some views as being a separate building nevertheless is considered to tie in with the massing of the host building. Whilst the materials and finishes, particularly the brick detailing as discussed above, result in an extension which will not necessarily reflect the detailing on the existing building, such a variation is not considered harmful to the host building or to the immediate context of the site where Cwrt Jubilee to the south and the block containing Penarth Jobcentre to the north which are principally constructed of various red / multi bricks.

In respect of impacts on the setting and character of the adjacent Conservation Area, it is considered that the final amended scheme whilst resulting in additional massing when viewing the site from a number of viewpoints within the Conservation Area, will not unacceptably impact and will preserve the setting and character of the adjacent Conservation Area. Views of the building will principally be against the host building and within the immediate context of the modern buildings to the north and south, which also fall outside of the Conservation Area. In addition, the extension is not considered to impact on the setting of Grade 2 Listed Building at the Turner House Art Gallery.

For the reasons set out above the siting, scale and form of the extensions and their resulting massing and impact are considered acceptable in line with Policies MD2 and MD5 of the LDP, subject to the development being constructed in accordance with the requirements of the conditions set out above and below.

Whilst the use of grey vertical cladding to the roof is a modern material, its dark grey colour will ensure that it is sympathetic to the predominant use of slate within the area. The use of grey upvc windows is also considered acceptable. Given the importance of materials and finishes in the development, it is necessary to secure full details and samples of both types of brick as well as all other external building elements, which shall be subject to the approval of full details by condition (**Condition 4** refers).

Impact upon amenity of neighbouring residential properties and of future occupiers

Policy MD2 of the LDP states that *in order to create high quality, healthy, sustainable and locally distinct places development proposals should meet the requirements of the listed criteria. These include criteria 8 and 9 as below:*

8. Safeguard existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance;

9. Provide public open space, private amenity space and car parking in accordance with the council's standards.

As shown on the amended plans and as a result of ongoing discussions, the rooms have been laid out with linear corridors mainly along the southern side of the extension with windows looking northwards, westwards or eastwards depending on which side of the building rooms are on. The rooms looking north will overlook the staff car park / amenity space and existing eastern wing of the building whilst the rooms looking west will overlook the railway line and industrial uses beyond.

In respect of Cwrt Jubilee to the south, this residential block has windows over three floors, with habitable windows which directly face onto the car park which serves the site. Due to the stepped detailing/building line in the south extension, the distance from the southern elevation of the proposed extension to Cwrt Jubilee, will vary from between 16m to 19m, as illustrated below.



The proposal would introduce a 30m wide extension within the above specified distance. Owing to the separation and position to the north of this block, whilst the proposed extension will no doubt alter the outlook for these residents, the revised scheme by bringing the extension down to two stories (with a 5m eaves height) which together with the distance between, will not result in a massing which would as a result, unacceptably enclose the outlook of these occupiers whose rooms are in the north elevation of the flats, or result in any undue detriment by virtue of loss of light or overbearing impact.



CGI Perspective View from Railway Walk

In respect of impacts on privacy, the Council's adopted Residential and Householder Development SPG, includes Design Standard 3 that requires '*a minimum distance of 21 metres between opposing windows in habitable rooms should be achieved*'.

The original scheme introduced a number of windows including those serving habitable rooms at a distance less than that set out within the Council's adopted SPG, which would have resulted in a loss of privacy to the occupiers of Cwrt Jubilee. Whilst the subsequent iterations of the scheme did show these windows to be obscure glazed which may have addressed issue of overlooking, the LPA were not satisfied that such an arrangement would provide future occupiers of the development with adequate or satisfactory form of outlook, having regard to health and wellbeing. Whilst technically not dwellings, these openings would provide the only form of outlook from these rooms, which for a significant part of the year would be occupied by students, The lack of clear glazing or functional openings would have made these already small rooms increasingly oppressive and unwelcoming spaces in which to stay.

Indeed, the relationship with the neighbouring Cwrt Jubilee was considered by the previous Inspector in consideration of the appeal for application reference 2008/00021/FUL. Although comments are made with regard to the effectiveness of proposed planting they are considered to remain of relevant in this case:

19. The planting along the site boundary and on the elevations could reduce direct overlooking. However if this were to completely screen the new windows it would result in blocking all light from those windows. This would be unacceptable to future residents. In addition the perception of being overlooked can be just as intrusive as direct overlooking. The presence of vegetation could result in occupiers being uncertain whether or not they are being overlooked and therefore not know whether to close their curtains or not. In my view there would be an unacceptably harmful degree of overlooking between the proposal and Cwrt Jubilee. In the circumstances of this case a separation of 21m is insufficient to avoid this problem. In addition the separation to what appears to be habitable room windows on the north elevation of 3 Plymouth Road is marginal.

The final scheme has addressed these concerns with habitable windows being removed from the south elevations, where the windows serving the dormitory rooms are now located on less sensitive elevations to maintain the privacy of nearby occupiers.

As stated above, there are two pairs of windows on each floor on the south elevation, which serve the corridor and landing, which are not habitable rooms, based on the definition with the Residential and Householder Development SPG. On this basis these windows are not considered to impact on the privacy of the occupiers of Cwrt Jubilee.

In terms of impacts on other neighbouring occupiers, it is acknowledged that the proposed extension would be situated approximately 7.5 metres from the boundary with 3 Plymouth Road at its nearest point. There are windows in the east elevation at first floor of the extension serving rooms 12 and 13. However, these views would predominantly be towards the outbuilding and parking area to the northern end of the property, that is already significantly open to views from the public domain and is not considered to constitute the neighbouring property's main or private area of amenity space. It is acknowledged that there are a number of openings within the neighbouring dwelling including those within the northern elevation. However, owing to the separation distance and angle of view between openings within the proposal and those within the neighbouring dwelling, it is considered that relationship would accord with the standards within the Residential and Householder Development SPG that allows for distances to be reduced depending on the angle of view. As such any impact upon No 3 Plymouth Road is considered on balance, not to warrant refusal of planning permission on privacy grounds. Moreover, the proposal is not considered to unacceptably enclose the outlook of the occupiers of this dwelling.

The distance of the extension to the dwellings on the eastern side of Plymouth Road would be in excess of 21m, and as such the proposal would not result in the loss of privacy for these occupiers, it would not impact on their outlook and would not have an overbearing impact on these occupiers.

Amenity provision

The Council's adopted Residential and Householder Development SPG provides standards for amenity provision for flatted blocks and dwellings. It should be noted that there are no adopted standards for student accommodation such as this, on the basis that a C1 use is being proposed and not a C3 use and as such the developer does not have to provide any set provision of amenity space.

The existing building and accommodation is served by an enclosed area of hard surfaced outdoor space between the building and the railway line, some 140 sq m in area. The proposed extension will result in the loss of this space, albeit the reconfigured layout will provide an area of grass, with a pathway of some 78 sq m, between the existing building and the west facing extension to serve the extended accommodation. In addition, there is a small first floor balcony located above the wavey flat roof, over the entrance, which will provide a further area of outdoor space.

In addition the existing building is shown to be served by an outdoor area of some 40 square metres within a courtyard area which will be created as a result of the extension to the south, which could provide outdoor space. There is also an also an area of some 76 sq m to the front of the existing building, although this is more of a landscaped entrance for the existing building and would not likely provide any usable outdoor relaxation / recreational space for the boarders.

There is communal space provided internally on each of the floors and whilst the outdoor space is limited, there is no policy requirement for a set provision of space for this type of use and it is considered on balance that the outdoor space would provide a basic external space. However this has to be weighed up against that fact that the pupils would in any event be attending Westbourne School, with extensive provision of outdoor facilities. Indeed the agent has stated that the students will have access to the MUGA within the school grounds, a short distance to the north of the site, which can be accessed both during school hours and outside of school hours.

Highway safety

It is acknowledged that the proposals would result in an increase in habitable accommodation at the site and a loss of parking, albeit that the parking to the rear is informally laid out. However, noting the nature of the use of the building and likely age of the occupants, it is unlikely that there would be an unacceptable increase in demand for parking, whilst the site falls within a highly sustainable location of the development adjacent to public transport.

Due in particular to the concerns raised by the public in respect of traffic and car and cycle parking and operation of school coaches, the agent has produced a parking note to clarify matters.

The statement acknowledges that there is a car park adjacent the entrance to GM2 House and that these spaces are used by staff who operate the boarding house, which can accommodate 5 / 4 cars. The agent states that, notwithstanding the loss of the car parking spaces (part of which will be retained to provide a paved courtyard and entrance to the existing building), these are entirely within the control of the school and only used by staff during school hours / term time. The agent emphasis that the site is in a highly sustainable location adjacent Penarth train station and Penarth Station bus stops. The loss of this parking area is in the opinion of the agent (in this town centre location) not considered to be detrimental to the area as there is significant opportunity for public transport and active travel.

On the matters of coach / bus parking in connection with the school, there is evidence that the school buses are currently parked in the area to the rear (northern) elevation of the building, which would be lost as a result of the development. The agent states that this is not a permanent fixture and the buses are only parked here as the school is currently applying for a new licence to allow them to operate the buses. This means they have had to temporarily use a private bus operator for transport and have taken parking facilities in the Westbourne School grounds as a result. The agent has stated that once the new licence has been successful, buses will no longer need to park adjacent GM2 House.

With respect of cycle parking, there is provision to the front of the existing building adjacent to the parking area. The agent also states that the school also has internal secure cycle parking within the school grounds which students can use and access to store bikes, which is circa 150m to the north of the site. However in reality it is not considered that remote cycle parking would be a viable or practical solution to serve the proposed development. The Parking Standards SPG does not have any direct specification for boarding accommodation, although the most comparable would be the standards for purpose built student accommodation, which requires 1 stand per 2 bedrooms. The proposals would therefore require 11 stands as a result of 22 new rooms, the provision of which shall be secured by condition (**Condition 6** refers).

The Council's Highway Development section have considered the application and the final amended scheme and are of the view that the proposals are not envisaged to remove any "dedicated parking bays" and it is unlikely that the proposals will have a detrimental impact on the surrounding highway network. Therefore, the original highway comments are still applicable in which they have no objection to the proposal, noting the loss of parking, subject to a means of controlling drop off and pick ups at the beginning of and end of term and also that further information is provided to students with regard to public transport options. It is considered that these details can be secured by way of condition by way of a combined management and travel plan in relation to drop off pick ups (**Condition 5** refers) aimed at both staff and parents of students to maximise the opportunities of using public transport given the highly accessible location of the site, particularly have regard to the adjacent Penarth Railway Station.

Concerns of residents with regard to construction traffic are noted. Whilst similar concerns have not been raised by the highway engineer, it is considered necessary to secure details for delivery and construction vehicles, timings and access routes to the site, to minimise impacts on the local highway network and minimise traffic congestion, by way of a Construction Traffic Management Plan (CTMP), which shall be secured by condition (**Condition 7** refers).

Whilst not a highway matter, given the existence of commercial wheelie bins, within the site, it is considered necessary, noting the increase in pupil numbers, that details of a scheme of lockable bin storage should be submitted, which shall be secured by condition (**Condition 6** refers) having regard to the comments made by the Designing Out Crime Officer.

Environmental Impacts

The Comments made by the SRS are noted. In respect of the comments made with regard to the restriction on the use of the garden terrace, with no music audible beyond the boundary of the property, as the proposal no longer includes the use of the roof area, no such restriction is considered necessary.

In addition to the CTMP as required above, in light of the comments made by SRS it is also considered necessary to secure Construction Environmental Management Plan (CEMP), by way of condition (**Condition 8** refers). 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. As well as a system for the management of complaints from local residents which will incorporate a reporting system.

In addition, given the proximity of the site to residential dwellings, in line with the comments by SRS, it is also considered necessary to restrict construction hours as set out below :

Monday – Friday 8:00 until 18:00
Saturday 8:00 until 13:00
With no Sunday or Bank Holiday working

Should there be a requirement to undertake foundation or other piling or drilling on site to accommodate on site surface water drainage or other works it is advised that these operations are restricted to:

Monday – Friday 8:30 until 17:30
Saturday and Sunday Nil

This shall be required by condition (**Condition 9** refers).

The requirements for the applicant to be aware of the risk of asbestos shall be secured by an informative (**Advisory Note 2**)

Impacts on Network Rail Land

The comments made by Network Rail are noted, which in the main relate to recommendations, as the proposal is next to Network Rail land and their infrastructure, to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway with asset protection which the agent has reviewed. Network Rail add that any works on the land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3 months notice before works start. The applicant should be advised of these requirements by way of an informative (**Advisory Note 3**)

Flooding and Drainage

From a flooding perspective, the Councils Drainage Section have stated that the site is not located in DAM zones at risk of tidal or fluvial flooding and NRW maps indicate that there is a very low risk of surface water flooding to the site.

In addition as the development is over 100 sq. m, this development will be subject to SAB approval prior to any commencement of work and an informative (**Advisory Note 4**) is necessary to ensure that the applicant is aware of the need for the approval of a scheme of drainage by the SuDS Approval Body (SAB).

Dwr Cymru / Welsh Water have stated that the proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record and, having regard to the proposed site plan, it appears the proposed development would be situated within the protection zone of the public sewer measured 3 metres either side of the centreline. They add that, it may be possible to divert the sewer if the developer applies under Section 185 of the Water Industry Act or recommend the proposed development is repositioned to accommodate for the required protection zone.

If the authority is minded to grant consent they have requested a condition to ensure that no development shall take place until details of a scheme to protect the structural condition of the public sewer crossing the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed design, construction method statement and risk assessment outlining the measures taken to secure and protect the structural condition and ongoing access of the public sewer. This requirement can be secured by condition (**Condition 12** refers) in addition the required informative (**Advisory Note 1**) shall also be imposed in line with their comments.

Green Infrastructure and Biodiversity Enhancement

On 18 October 2023, Welsh Government announced changes to Planning Policy Wales (PPW) by way of a Dear CPO letter entitled 'Addressing the nature emergency through the planning system: update to Chapter 6 of Planning Policy Wales'. Although it is to be included in the forthcoming revision to PPW, the letter confirms that the Chapter 6 policy is updated with immediate effect. The main policy changes which are of relevance relate to green infrastructure, net benefit for biodiversity and the protection afforded to trees.

Given the location of the building within the site and the surrounding hard surfaced parking areas to the north and south, the road to the east and railway line to the east, the site does not currently benefit from any meaningful green infrastructure or form part of a wider green infrastructure corridor or connectivity route. Whilst the site has some small linear ornamental pocket landscape areas, principally consisting of small shrubs along the southern boundary, which will be lost as a result of the development, this will not be to the detriment of any meaningful green infrastructure at the site. There is a small ornamental tree adjacent to the north-west corner of the existing building, which is shown to be retained in the development. There is however an opportunity to reinstate some of the landscaping along the southern boundary of the site, which can be secured as part of a wider scheme of landscaping for the site secured by condition (**Condition 11** refers) which shall include details as to how the existing tree will be safeguarded during development, in the interest of both visual amenity and Green Infrastructure.

Policy MD9 'Promoting Biodiversity' of the Adopted LDP requires new development to conserve and where appropriate, enhance biodiversity interests unless it can demonstrated that:

1. The need for the development clearly outweighs the biodiversity value of the site;
2. The impacts of the development can be satisfactorily mitigated and acceptably managed through appropriate future management regimes.

Para. 6.4.5 of Planning Policy Wales (Edition 11, 2021) states that :

"Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity..... "

The applicant has not provided any details in respect of biodiversity enhancement, given the scale and nature of the development, it is considered appropriate to secure a Biodiversity Enhancement Strategy to include details of any bird/bat box provision, details of any landscaping features and / or details of any additional ecological enhancements. These biodiversity enhancements will be required in addition to the scheme of landscaping as set out above, and shall be secured by condition (**Condition 13** refers).

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:

N278 - A040 - Site Location Plan
N278 - A046 - Proposed Site Plan
N278 - A047 - Proposed Ground Floor Plan
N278 - A048 - Proposed First Floor Plan
N278 - A049 - Proposed Roof Plan
N278 - A050 - Proposed Elevations
N278 - A051 - Proposed Site Sections
Planning & Design Statement April 2023

All received 27 April 2023

Reason:

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

3. No development shall 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 the amenities of the area are safeguarded and to ensure the development accords with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Development) of the Local Development Plan.

4. Notwithstanding the submitted details, a schedule and samples of all external finishes and 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. The development shall be completed in accordance with the approved details.

Reason:

To safeguard local visual amenities, as required by Policies SP1 (Delivering the Strategy) and Policy MD2 (Design of New Development) of the Local Development Plan.

5. Prior to the first beneficial use of the development hereby approved, a Management Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, which shall include a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use and identify how the means by which pupils will arrive and how this will be managed, which shall include:

- Measures to encourage and educate a modal shift away from the private car for staff and parents.
- Details how the pupils will arrive and leave the site at the start / end of each term, in respect of any allocated time slots for students on pick up drop off days.
- A report to be provided to the Council annually reviewing the effectiveness of the Management Travel Plan and shall include any necessary amendments to the Management travel plan or additional measures to be implemented.

Reason:

To ensure the development accords with sustainability principles, in the interests of highway and pedestrian and safety and to ensure that the site is accessible by a range of modes of transport in accordance with Policies SP1 (Delivering the Strategy), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

6. The development shall not be occupied until facilities for secure / lockable cycle parking for 11 bicycles and secure / lockable bin store have been provided in accordance with a scheme that shall first be submitted to and approved in writing by the Local Planning Authority. The agreed scheme of cycle parking and bin storage shall be provided prior to the first beneficial occupation of the building and shall be retained for the lifetime of the development.

Reason:

To ensure that satisfactory secure parking for cycles and bin storage is provided on site to serve the development, 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.

7. Prior to the commencement of development or any site clearance, 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 all construction traffic, the proposed routes for all construction vehicles, timings of construction traffic (which shall be in accordance with the timings specified in Condition 9), where materials will be unloaded from vehicles onto the site and the means of defining and controlling such traffic routes and timings. The construction phase development shall be carried out in accordance with the approved Management Plan.

Reason:

To ensure that the parking provision and highway safety in the area are not adversely affected by the construction of the development and to meet the requirements of Policies MD2 (Design of New Developments) and MD7 (Environmental Protection) of the Local Development Plan.

8. 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 location of parking of contractors vehicles, site operatives and visitors;
 - ii) loading and unloading of plant and materials and where these will be stored on the site ;
 - iii) location of areas for the 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 (which shall be in accordance with the timings specified in Condition 9)
 - ix) lighting;
 - x) management, control and mitigation of noise and vibration;
 - xi) odour management and mitigation;
 - xii) diesel and oil tank storage areas and bunds;
 - xiii) how the developer proposes to accord with the Considerate Constructors Scheme (www.considerateconstructorsscheme.org.uk) during the course of the construction of the development; and
 - xiii) 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) and MD7 (Environmental Protection) of the Local Development Plan.

9. All phases of construction on site and any deliveries in respect of the construction phase of the development shall only be permitted in respect of the following :

Monday – Friday	8:00 until 18:00
Saturday	8:00 until 13:00
With no Sunday or Bank Holiday working	

Should there be a requirement to undertake foundation or other piling or drilling on site, these operations are restricted to :

Monday – Friday	8:30 until 17:30
Saturday and Sunday	Nil

Reason:

To ensure that the amenities of neighbouring occupiers is safeguarded and to ensure compliance with the terms of Policies MD2 (Design of New Developments) and MD7 (Environmental Protection) of the Local Development Plan.

10. 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, which shall relate to all areas of soft and hard landscaping, which in particular, shall have regard to the provision of soft landscaping planting scheme along the southern boundary of the site. The scheme shall include indications of all existing trees (including spread and species) and set out measures for their protection throughout the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) 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), SP10 (Built and Natural Environment), MD2 (Design of New Developments) and MD8 (Historic Environment) of the Local Development Plan.

12. No development shall take place until details of a scheme to protect the structural condition of the public sewer crossing the site has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed design, construction method statement and risk assessment outlining the measures taken to secure and protect the structural condition and ongoing access of the public sewer. No other development pursuant to this permission shall be carried out until the approved protection measures has been implemented and completed. The approved scheme shall be adhered to throughout the lifetime of the development and the protection measures shall be retained in perpetuity.

Reason:

To protect the integrity of the public sewer 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 SP1 (Delivering the Strategy) and MD1 (Location of New Development) of the Local Development Plan.

13. Prior to the first beneficial occupation of the development, a Biodiversity Enhancement Strategy addressing enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved strategy and timings set out within and thereafter retained in accordance with the approved details whilst the development remains in existence. The Strategy shall include the following:
 - a) Details of any bird/bat box provision
 - b) Details of any landscaping features
 - c) Details of any additional ecological enhancements

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.

14. The use hereby approved shall only be as a student boarding house as detailed in the Planning & Design Statement April 2023 (received 27 April 2023) and at no time shall the extension be used for any other purpose falling within Class C1 of the Town and Country Planning (Use Classes) Order 1987 as amended or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order.

Reason:

To control the precise nature of the use of the site, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy), MD2 (Design of New Developments), MD5 (Development Within Settlement Boundaries) and MD8 (Environmental Protection) of the Local Development Plan.

REASON FOR RECOMMENDATION

The decision to approve 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 and Future Wales – the National Plan 2040.

Having regard to Policies SP1– Delivering the Strategy, MD1 - Location of New Development, SP10- Built and Natural, MD2 - Design of New Development, MD5 - Development within Settlement Boundaries, MD7 - Environmental Protection, MD8 - Historic Environment and MD9 – Promoting Biodiversity of the Vale of Glamorgan Adopted Local Development Plan 2011- 2026, and Future Wales – the National Plan 2040. Planning Policy Wales (Edition 11), the Council’s Supplementary, Biodiversity and Development and Parking Standards the proposed development in respect of its siting, design and scale and visual impact on the character of the area is considered acceptable and would preserve the character of the adjacent Conservation Area. The proposal is also considered acceptable having regard to its impacts on residential amenity and privacy, parking, highway safety, drainage, ecology and green infrastructure.

Having regard to the Council’s duties under the Equality Act 2010 the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic.

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.

The appropriate marine policy documents have been considered in the determination of this application in accordance with Section 59 of the Marine and Coastal Access Act 2009.

NOTE:

1. Dwr Cymru / Welsh Water

In accordance with Planning Policy Wales (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

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

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 on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

2. Asbestos

The applicant should take into account the risk of asbestos containing building materials during the construction / demolition works required with appropriate surveying and removal being undertaken.

3. Network Rail

Due to the proposal being next to Network Rail land and their infrastructure, no part of the development shall adversely impact the safety, operation and integrity of the operational railway in respect of the following :

Fencing - Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

Former BR Land - The development is located on an area of land previously under the ownership of Network Rail. Often these sites are sold and are subject to a demarcation or covenant agreement which may include particular rights in relation to the safe operation of the railway and associated infrastructure. It must be considered when Network Rail has access rights over the development site; access must not be blocked or restricted at any time. The applicant must comply with all post sale covenants in the demarcation agreement and understand the implications this will have on the implementation of this development.

Any representations made are without prejudice to those rights and obligations and on the basis that they do not imply that Network Rail's approval under the demarcation agreement will be given for the proposed development or for any part of it.

Site Layout - It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

Piling - Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Excavations / Earthworks - All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

Plant, Scaffolding and Cranes - Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

Lighting - Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.

Drainage - Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be

provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels – if altered, to be such that water flows away from the railway. Drainage is not to show up on Buried service checks.

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact assetprotectionwales@networkrail.co.uk .

4. SuDS Approval Body

New developments of more than one dwelling or where the area covered by construction work equals or exceeds 100 square metres as defined by The Flood and Water Management Act 2010 (Schedule 3), will require SuDS Approval Body (SAB) approval prior to the commencement of construction.

Further information of the SAB process can be found at our website or by contacting our SAB team: sab@valeofglamorgan.gov.uk

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

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

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

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

2023/00337/FUL Received on 29 March 2023

APPLICANT: Ceri Jones, 7 Sycamore Close, Llandough, Penarth, Vale Of Glamorgan, CF64 2NP

AGENT: Nicky Watkins, Studio 1, The Platform, Hemmingway Road, Cardiff, CF10 5LS

7, Sycamore Close, Llandough, Penarth

Proposed two storey extension to rear elevation with hipped roof

REASON FOR COMMITTEE DETERMINATION

The application is required to be determined by Planning Committee under the Councils approved scheme of delegation due to the planning application having been called in for determination by Cllr George Carroll on the grounds of public opposition to proposal, and because there is a dual recommendation for the approval of the application and the authorisation of enforcement action.

EXECUTIVE SUMMARY

The application site relates to 7, Sycamore Close, Llandough, a detached dwelling located within the Settlement Boundary of Llandough. This is a partially retrospective application for the construction of a two storey extension to the rear elevation of the dwelling, with the addition of a hipped roof.

The key issues to consider in the assessment of this application includes the principle of development, the design and visual impact, the impact upon neighbouring amenity, parking and amenity space provision, and the impact upon green infrastructure and biodiversity enhancement provision.

During the course of the planning application, a number of amended and revised plans have been received, and were subsequently reconsulted upon. The most recent plans, which form the basis of this application, has received ten letters of objection from neighbouring dwellings. These objections include, but not limited to, the visual impact of the extension, the impact upon neighbouring amenity, the consultation procedure undertaken, the construction methods used and the potential of future development.

Whilst having considered the letters of representations received and taking the matters into consideration, the development is recommended for approval, subject to conditions.

Whilst an approval of the revised scheme is recommended, due to the structure as constructed being unauthorised, in order to ensure that the approved scheme is completed, the authorisation to take enforcement action requiring the completion of the extension as proposed is recommended.

SITE AND CONTEXT

The application site relates to 7, Sycamore Close, a detached, two storey dwelling located on a relatively uniform street scene of circa 1970s dwellings, although the application dwelling has been previously extended and has been rendered. To the north of the application dwelling is a terraced block of three storey dwellings. In Policy terms, the site

is located within the Settlement Boundary of Llandough as identified in the Adopted LDP 2011-2026.



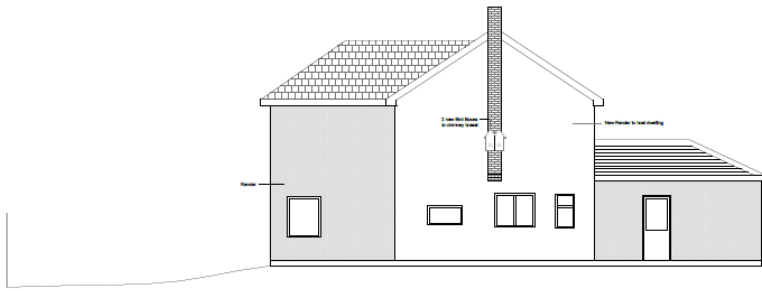
DESCRIPTION OF DEVELOPMENT

This is a partially retrospective, full planning application, as amended, for the construction of a two storey extension to the rear elevation of the dwelling, with a hipped roof.

The extension measures approximately 8.5m in width, 3.8m in depth. The proposed hipped roof would have an eaves height to match that of the host dwelling, measuring approximately 4.9m, and the ridge being set below that of the host dwelling, measuring approximately 6.8m.

The extension has been constructed with a partial curved wall element at ground floor level to the south-east corner, due to the location of a manhole. To the rear elevation, 6m wide bi-folding doors have been installed to the ground floor, with the first floor being served by three windows, serving two bedrooms and a bathroom. To the side elevation, at ground floor, two additional windows have been installed (one serving the existing kitchen area and within the extension).

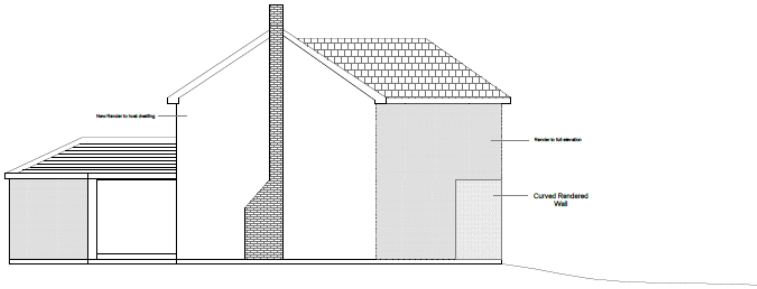
The external materials are confirmed to comprise of render to the ground and first floor, with the whole dwelling being rendered, and new roof tiles to match those to the front elevation of the dwelling.



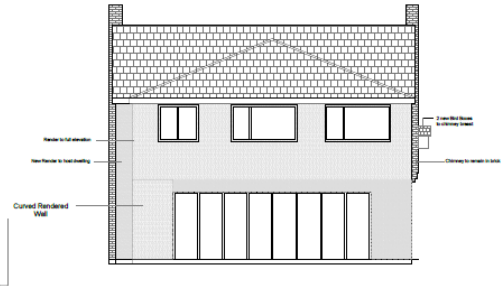
PROPOSED LEFT SIDE ELEVATION



PROPOSED FRONT ELEVATION

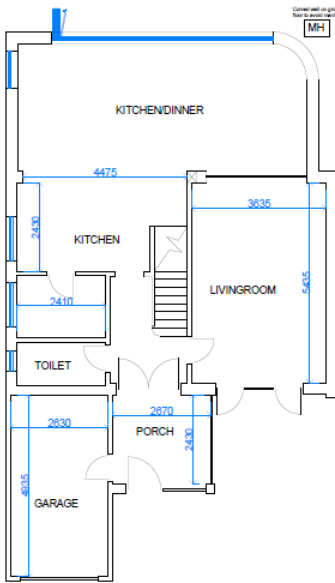


PROPOSED RIGHT SIDE ELEVATION

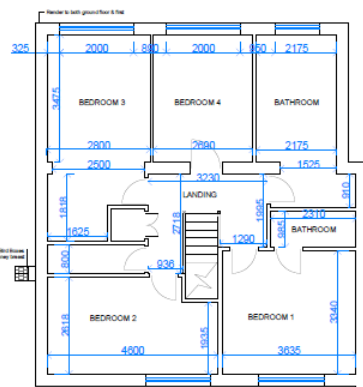


PROPOSED REAR ELEVATION

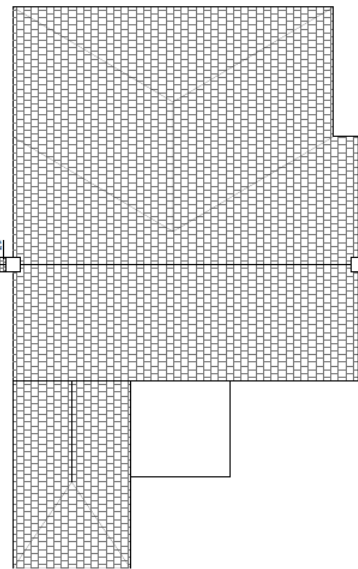
- Note:
- Extension to be fully rendered on both Floors
 - 2 no of bird boxes added to enhance bio-diversity
 - Existing host dwelling to be fully rendered



PROPOSED GROUND FLOOR



PROPOSED FIRST FLOOR

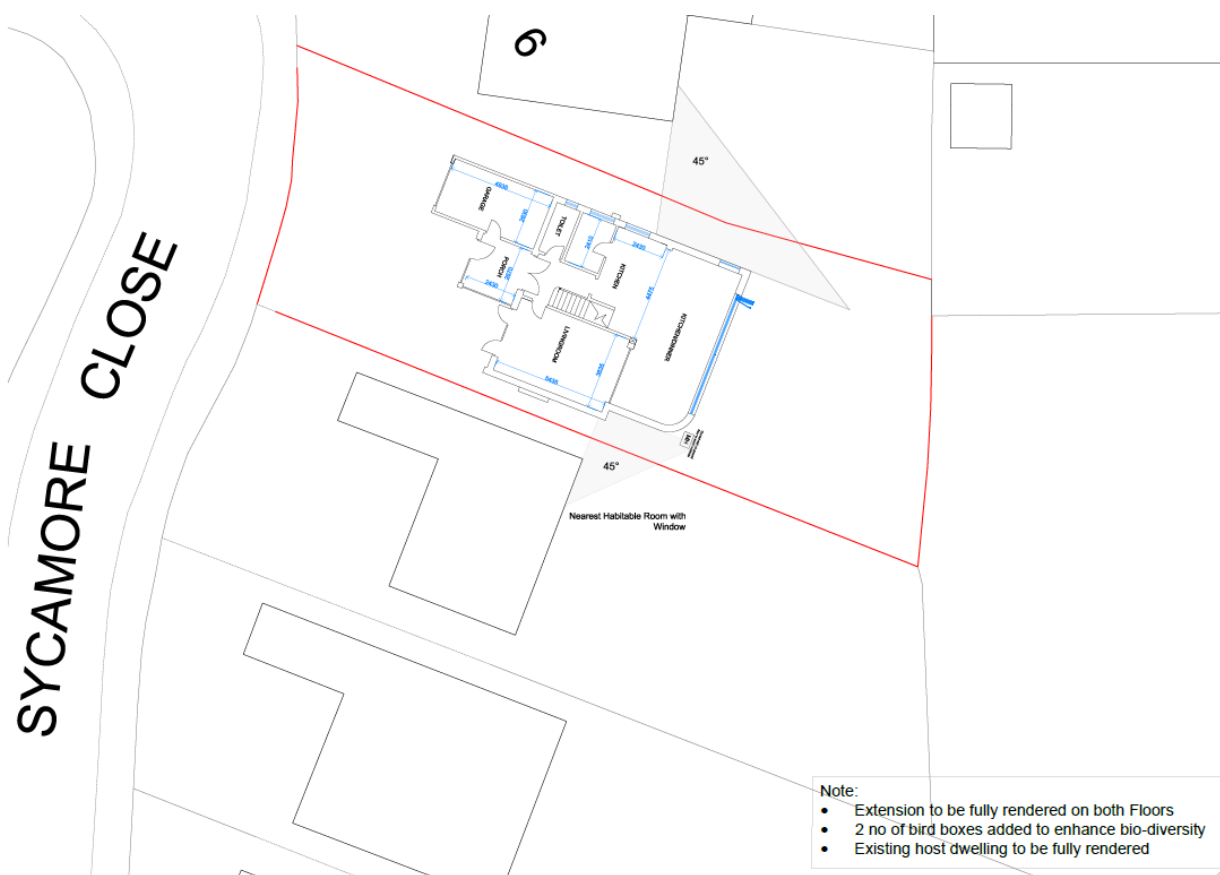


PROPOSED ROOF

- Note:
- Extension to be fully rendered on both Floors
 - 2 no of bird boxes added to enhance bio-diversity
 - Existing host dwelling to be fully rendered



Proposed Elevations



PLANNING HISTORY

2017/00636/FUL, Address: 7, Sycamore Close, Llandough, Penarth, Proposal: Addition of a porch to the front elevation, Decision: Approved

2019/00507/FUL, Address: 7, Sycamore Close, Llandough, Penarth, Proposal: Part three storey part two storey rear extension with raising of ridge height and alteration works, Decision: Refused 3 July 2019, for the following reasons:

By reason of the scale and design of the proposed extension and roof alteration, the proposal would significantly increase the massing and scale of the existing two storey dwelling and would fail to have regard to the character of the existing house and the scale of the two storey dwellings located in Sycamore Close and would therefore be detrimental to the character and amenity of the street scene. The proposal is therefore considered to be contrary to Policies SP1, MD2 and MD5 of the Vale of Glamorgan Adopted Local Development Plan, the Council's Residential and Householder Development SPG and the advice and guidance contained within Planning Policy Wales 10th Ed. and TAN12 - Design.

By reason of its height and design, the proposed rear extension and increase in roof height would result in an overbearing and unneighbourly form of development when viewed from the rear gardens of No. 6 & 8 Sycamore Close, unacceptably impacting upon the amenities of the occupiers. The proposal would therefore be contrary to the aims of Policies MD2 of the Vale of Glamorgan Adopted Local Development Plan 2011-2026, and the advice within the Council's Supplementary Planning Guidance on Residential and Householder Development, Planning Policy Wales 10th Ed. and TAN12 - Design.

2019/01201/FUL, Address: 7, Sycamore Close, Llandough, Proposal: Part three storey part two storey rear extension with raising of ridge height & alteration works, Decision: Refused 18 December 2019, for the following reasons:

By reason of the scale and design of the proposed extension and roof alteration, the proposal would significantly increase the massing and scale of the existing two storey dwelling and would fail to have regard to the character of the existing house and the scale of the two storey dwellings located in Sycamore Close and would therefore be detrimental to the character and amenity of the street scene. The proposal is therefore considered to be contrary to Policies SP1, MD2 and MD5 of the Vale of Glamorgan Adopted Local Development Plan, the Council's Residential and Householder Development SPG and the advice and guidance contained within Planning Policy Wales 10th Ed. and TAN12 - Design.

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A subsequent appeal against this refusal was dismissed, with the inspector considering that "by virtue of its scale, form and overall design, the proposed development would represent an insensitive and incongruous addition to the appeal property" and that "the development would cause material harm to the living conditions of the occupiers of Nos. 6 and 8, by reason of loss of outlook from rear amenity areas".

2020/00467/FUL, Address: 7, Sycamore Close, Penarth, Proposal: Rear double storey extension, Decision: Approved

2020/00467/1/NMA, Address: 7, Sycamore Close, Llandough, Proposal: Non Material Amendment - Amendments to the roof. Planning permission ref: 2020/00467/FUL - Rear double storey extension, Decision: Withdrawn

CONSULTATIONS

Llandough Community Council were consulted on 17 April 2023, and were reconsulted on 26 April 2023 and again on 13 September 2023, and responded on 12 May 2023 with the following comment:

The comment of Llandough Community Council is that it is assumed that the planning officer will assess whether there will be any loss of privacy on the part of the neighbours in considering the application.

Llandough Ward Members were consulted on 17 April 2023 and were reconsulted on 26 April 2023 and again on 13 September 2023 and Cllr George Carroll responded stating that following discussion with neighbouring residential, I request that the application is called into planning committee.

REPRESENTATIONS

The neighbouring properties were consulted on 17 April 2023 and a summary of the responses relating to planning considerations received are below:

- Out of keeping with streetscene
- Oppressive design
- Overdevelopment
- Loss of privacy to neighbours
- Constructed without benefit of planning permission
- Lack of neighbour consultation
- Concerns regarding potential future development
- Impact on neighbouring property value
- Disruption from ongoing building works

The neighbouring properties were reconsulted on 26 April 2023 on the basis of new plans and to retain what has been constructed and neighbours had raised the same concerns as the previous consultation response.

The neighbouring properties were reconsulted on 22 June 2023 on the basis of new plans to retain the flat roof extension and parapet, and the comments received again raised the same concerns to the dwelling as previous consultation periods.

The neighbouring properties were reconsulted on 13 September 2023 on the basis of amended plans, which form the basis of this application. A summary of the planning consideration responses received are below:

- The hipped roof would overshadow and be overbearing to neighbours
- Overlooking into private gardens
- Approved plan should be adhered to
- Pitched roof more acceptable, however height of the building is still excessive
- Out-of-keeping
- Concerns regarding durability of timber cladding
- Same concerns as previously raised

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 Vale of Glamorgan Adopted Local Development Plan 2011-2026 forms the local authority level tier of the development plan framework. The LDP 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 Development Policies:

POLICY MD2 - Design of New Development

POLICY MD5 - Development within Settlement Boundaries

POLICY MD9 - Promoting Biodiversity

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

Future Wales: The National Plan 2040:

Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process. The following chapters and policies are of relevance in the assessment of this planning application:

Chapter 3: Setting and achieving our ambitions

- 11 Future Wales' outcomes are overarching ambitions based on the national planning principles and national sustainable placemaking outcomes set out in Planning Policy Wales.

Chapter 4: Strategic and Spatial Choices: Future Wales' Spatial Strategy

- Guiding framework for where large-scale change and nationally important developments will be focussed over the next 20 years.
- Strategy builds on existing strengths and advantages and encourages sustainable and efficient patterns of development.

Chapter 5 – The Regions

- The Vale of Glamorgan falls within the South East region.
- Regional policies provide a framework for national growth, for regional growth, for managing growth and supporting growth.
- In the absence of SDPs, development management process needs to demonstrate how Future Wales' regional policies have been taken into account.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

The following chapters and sections are of particular relevance in the assessment of this planning application:

Chapter 2 - People and Places: Achieving Well-being Through Placemaking,

- Maximising well-being and sustainable places through placemaking (key Planning Principles, national sustainable placemaking outcomes, Planning Policy Wales and placemaking)

Chapter 3 - Strategic and Spatial Choices

- Good Design Making Better Places
- Promoting Healthier Places

Technical Advice Notes:

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

- Technical Advice Note 12 – Design (2016)

Supplementary Planning Guidance:

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

- Parking Standards (2019)
- Residential and Householder Development (2018)

Other relevant evidence or policy guidance:

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council's duty under the above Act has been given due consideration in the preparation of this report.

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.

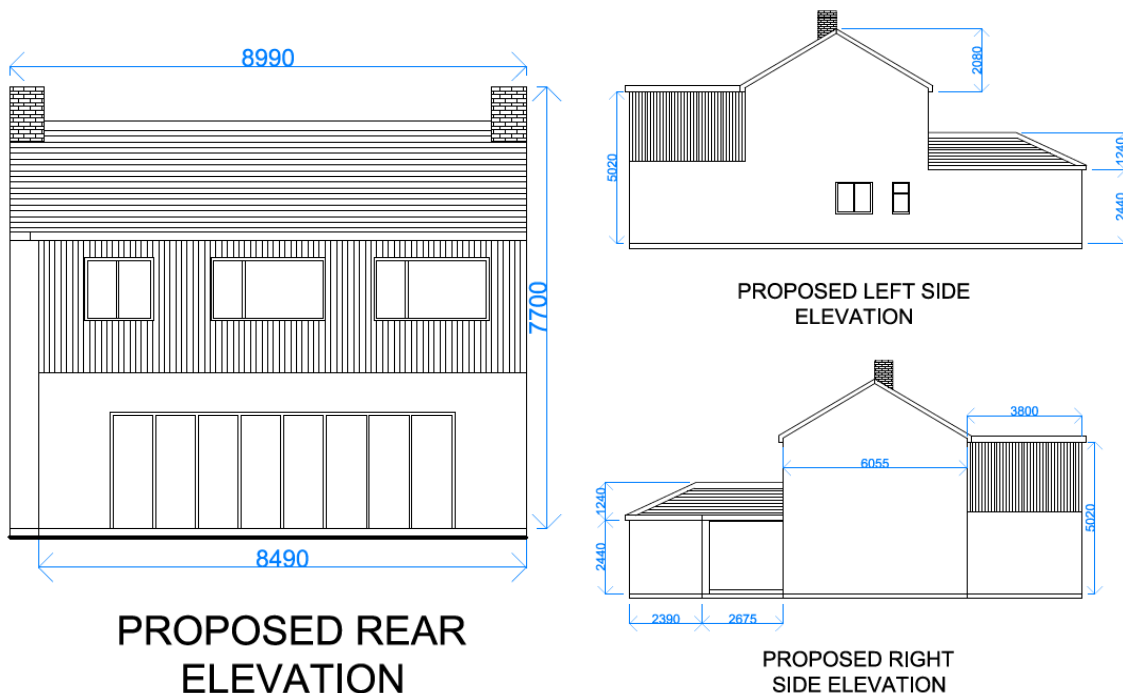
Issues

The primary issues to consider in the determination of this planning application includes the background and planning history of the site, the principle of development, the design and visual impact of the amended scheme and its impact upon neighbouring amenity. Consideration will also be given to the impact upon amenity space and parking provision, and biodiversity enhancement provision.

Background

The application property has considerable planning history, with two previous applications for part two and part three storey extensions having previously been refused, where the latter application was dismissed at appeal by the Planning Inspectorate due to concerns regarding the design and visual impact of proposal and its impact on neighbouring amenity.

Following these refused applications, approval was granted under planning application ref: 2020/00467/FUL, for a two storey extension which extended the full width of the dwelling to the rear elevation, comprising of a flat roof, with the approved plans as detailed below:



Approved Plans: 2020/00467/FUL

However, an enforcement complaint was received and a case was opened in January 2023, citing that the extension had not been constructed in accordance with the approved plans, with the flat roof of the extension exceeding the eaves height of the host dwelling, in addition to the construction of a parapet above the extension.

Following an investigation by the Councils Planning Enforcement Department, it was concluded that the approved plans for application ref: 2020/00467/FUL were inaccurate, and the measurements provided on both the existing and proposed plans were not representative of the existing dwelling, particularly respect of its height. The plans were approved on the basis that the flat roof height was shown to match that of the eaves of the dwelling, as a relative comparison and it was on this basis that planning permission was granted.

The eaves height of the existing dwelling was however incorrectly drawn on the submitted plans, as being 5.02m above rom ground level, however in reality, the eaves height of the dwelling is 4.7m above ground level. Therefore, when the extension was constructed, it was built based on the height measurements of the eaves in the approved plans, which was some 0.3m higher lower than the dwelling. Notwithstanding this, a parapet was then added to the extension, with a height of 500mm. This has therefore resulted in an extension some 1 metres higher than the eaves height of the host dwelling.

A non-material amendment application was initially submitted to regularise the breach of planning control, however due to the extent of the breach and the additional impacts over the approved scheme, the development was considered to be a material change to the original consent.

In addition, due to the inaccuracies of the original approved plans and the associated measurements, officers are also of the view that the development has no “fall back” position as the dimensions of the existing house are incorrect and as such the extension approved under application ref: 2020/00467/FUL, in relation to how it abuts the existing dwelling could never be built, in respect of the approved plans.

In light of the above the agent was advised to submit a new full planning application, without prejudice, to retain the development.

Throughout the duration of this full application, proposed plans have been received, however following officer and on site assessments, these plans were still not considered to accurate in respect of what has been constructed in comparison to the host dwelling, with continued issues regarding the accuracies of the measurements submitted.

The final set of amended plans subject to this application are now considered to accurately detail exactly what has been constructed, and the existing and proposed plans are considered accurate in terms of their measurements, as confirmed by officers.

Design and Visual Impact

In policy terms the site is located within the Settlement Boundary of Llandough, as identified in the LDP. Policy MD5 (Development within Settlement Boundaries) states that new development within settlements will be permitted where the proposed development:

- Makes efficient use of land or buildings.
- 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.
- The proposal would not result in the loss of natural or built features that individually or cumulatively contribute to the character of the settlement or its setting.

Policy MD2 (Design of New Development) is also relevant, and states that in order to create high quality, healthy, sustainable and locally distinct places development proposals should:

- 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.
- Respond appropriately to the local context and character of neighbouring buildings and uses in terms of use, type, form, scale, mix and density.

The principle of a two storey extension to the rear elevation of the dwelling has previously been considered acceptable under planning application ref: 2020/00467/FUL, and this extension, was considered acceptable in terms of its design and visual impact, despite its flat roof, and its impact upon neighbouring amenity in terms of overshadowing and loss of outlook. Moreover, it is agreed that the width and depth of the extension subject to this application, is the same as the planning permission ref : 2020/00467/FUL, the dimensions of which have been confirmed on site.

Having regards to the extension as built, it has been constructed with a flat roof and parapet to a total height, inclusive of the parapet, of 5.9m, breaking into the rear roof slope of the dwelling. As shown below, the resulting construction as built, due to its elevated wall plate, results in an incongruous extension that is not sympathetic to the character of the dwelling and one which is also visible and highly prominent from a number of adjoining rear gardens.



View from rear garden of 6 Sycamore Close to the north

Following officer concerns as to the visual impact of the constructed extension and having regard to the comments made in the letters of representation received, the applicant and agent was advised that the application to retain the extension as built would not be supported by officers. The amended scheme therefore seeks to address officers concerns in respect of the impact of the parapet roof and extended wall plate above eaves level.

The revised scheme proposes a reduction of the wall plate of the extension to a height of 4.9m from ground level, which would match the eaves height of the host dwelling, and would form a continuation of the host dwelling eaves height. This would therefore result in

an eaves height that would be the same height that was thought to have been “approved” as a flat roof under application ref: 2020/00467/FUL, albeit the incorrect eaves height of the dwelling was shown. The revised extension would also include a hipped roof above, which would have a ridge height of 6.8m, and would be set below the ridge of the host dwelling by 400mm.

With respect to the amended proposals, complete with the hipped roof, and its impact upon the character and visual appearance of the application dwelling, the reduction of the height of the wall plates of the extension to match the eaves height of the host dwelling is considered to greatly reduce the bulk and massing of the extension. It is considered that the reduction of the wall plate of the extension would result in a considerably more subservient extension than that of the existing extension, and whilst it would still result in an extension of a sizeable scale and massing, due to the amended roof form, despite the ridge of the hipped roof being higher, the extension as a whole it is now considered to be much better balanced and proportionate to the host dwelling, and would not result in an overly dominant and incongruous addition, in comparison to the existing inappropriate form of the extension. In terms of the design of the amended extension, whilst a flat roof was previously considered acceptable, due to the limited visibility of the extension from public vantage points, the Councils Residential and Householder SPG states that *flat roofs are generally not supported unless they form part of a high quality contemporary scheme*. Given that the extension as built is not considered to be particularly contemporary in its design, the addition of a hipped roof to the extension is considered to enhance the visual appearance of the extension and would aid in improving the overall visual impact of the development.

In terms of the visual impact from public vantage points, given that the extension is located to the rear elevation, its impact upon the street scene is limited. Nevertheless, the extension is glimpsed through the gaps between the application site and its adjacent neighbours on Sycamore Close, and the gaps between the dwellings to the east on Oakwood. In terms of the impact from Sycamore Close and Oakwood Close, due to the wall plate of the extension as built far exceeding the eaves height of the host dwelling, this increases the prominence of the extension as built when viewed from the gaps between dwellings. The reduction of the wall plate, and the introduction of a hipped roof would reduce the visual impact of the extension on the area and would result in an acceptably sized and scaled extension when glimpsed through the gaps in the dwelling.

In addition, given the height and size of the existing extension, concerns have been raised by neighbouring properties as the visual impact of the extension from their private residential amenity spaces. With respect to the impact of the extension when viewed from neighbouring properties, it is acknowledged that poor design and visual massing can have a detrimental impact upon the enjoyment of private neighbouring amenity spaces. The extension as constructed is considered to represent a prominent and imposing extension, particularly when viewed from the private amenity space of 6 Sycamore Close, due to the differing ground levels between the amenity spaces of the dwellings. The reduction of the wall height of the extension, and the installation of a hipped roof, as proposed, would reduce the overall visual massing of the extension, and increase the subservience of the extension to the host dwelling. This would result in an extension that, whilst undeniably visible from the private amenity space of this neighbour, would represent an acceptable addition to the dwelling that would not unacceptably impact upon the character and visual amenity of the dwelling and wider public and private viewpoints to a degree which would warrant a refusal of the application on this basis. Moreover, the width and depth of the extension is the same as that which has already been approved.

The proposed external materials will also aid in reducing the visual massing and overall impact of the revised extension. The revised plans initially proposed timber cladding to the first floor of the extension, however concerns were raised by officers and neighbours as to the durability of timber cladding and the resulting “bulk” that would arise with the addition of timber cladding and how it would be detailed at corners and junctions.

Consequently, the amended plans detail that the extension and the side elevations of the host dwelling are to be fully rendered in white to match the front of the dwelling. In addition, the hipped roof will be finished in roof tiles to match the roof tiles to the front elevation of the dwelling. The use of these materials would ensure continuity with the already rendered front elevation of the host dwelling, and would modernise the dwelling, without introducing elements of design which would require maintenance and would detrimentally impact upon the visual impact of the dwelling.

Consequently, having regard to the bulk, massing and prominence of the revised extension and associated hipped roof, and the use of appropriate materials which would reduce its visual impact, the revised extension, comprising of the reduction of the wall plate to match the eaves height of the host dwelling, and the installation of a hipped roof, is considered appropriately sized and scaled, and would be subservient to the host dwelling. It is therefore considered compliant with Policies MD2 and MD5 of the Adopted LDP, and the guidance laid out within the Councils Residential and Householder SPG.

Impact upon Neighbouring 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 Residential and Householder Development (2018).

Due to the number of representations received, the impact of the extension on each neighbour with a shared boundary to the application property will be discussed in turn. Additional consideration will be given to those neighbours in close proximity to the application site:

8 Sycamore Close

Having regards to 8, Sycamore Close, this neighbour is located to the south of the application site and is located at the same ground level as the application property. In terms of overshadowing and loss of outlook, the extension as constructed remains at the same depth as the extension approved under ref: 2020/00467/FUL, and the proposed eaves height of the extension will match that of the previously approved extension, albeit the extension now proposes a hipped roof. The depth of the extension and height of the eaves height of the extension has previously been considered acceptable under the application ref: 2020/00467/FUL. Moreover, given that the depth of the extension is the same as approved, the additional impacts in respect of massing is that created by the hipped roof. The hipped roof would taper away to the ridge of the roof, which would reduce its impact particularly when considering the reduction of the wall height. In addition, the extension is located 1.5m off the shared boundary, and approximately 2.5m off the side elevation of the dwelling. Therefore, given this separation distance, the orientation of the dwelling and its location south of the application site, and the depth of the extension, the

revised scheme is not considered to unacceptably impact upon the neighbouring amenity of this dwelling in terms of overshadowing and loss of outlook.

In respect of privacy and overlooking, no openings have been fitted or are proposed to the south facing side elevation of the extension, and whilst the openings to the rear of the extension provide views towards the rear section of this neighbour's private amenity space, the degree of overlooking has been reduced in comparison to the original dwelling, due to the depth of the extension reducing the scope of overlooking.

Consequently, the proposed extension is not considered to overlook the private amenity space or the dwelling to an unacceptable degree.

6 Sycamore Close

With regards to 6 Sycamore Close, this dwelling forms the end terrace dwelling of the row of three storey townhouses to the north of the application site. The private amenity space of this dwelling is located at a lower level than that of the application site, by approximately 670mm. The relationship between the as constructed extension, and the amenity space of 6 Sycamore Close can be viewed below:



Having regards to overshadowing and loss of outlook, the extension is located 1.7m off of the shared boundary with this neighbour, and 5.6m from the side elevation of this neighbouring dwelling. In respect of the windows contained within the rear elevation of 6 Sycamore Close, due to the orientation of the application dwelling, of which the shared boundary tapers away from 6 Sycamore Close, and the separation distance from the rear elevation of the neighbour, it is not considered that the revised extension (on the basis the depth is the same as previously approved) would have an unacceptable impact upon the outlook from these windows which would warrant the refusal of this application.

In respect of the impact from the rear private amenity space of this dwelling, it is acknowledged that the application property is located at a higher ground level, therefore the impact of the extension as built is exacerbated by a combination of the levels difference and the impact of the increased wall height and parapet. In addition, the patio serving the neighbouring dwelling is located directly adjacent to the extension. Nevertheless, the proposed, revised scheme would result in the reduction of the wall height adjacent to the shared boundary by 1m, and whilst the hipped roof would add some additional massing, given that the roof planes would taper away from the boundary, this would reduce the overall bulk and massing of the extension.

Whilst the extension is undoubtedly visible from the rear private amenity space, the reduction of the wall plate of the extension, and the installation of a hipped roof would not detrimentally impact upon the outlook and use of the private amenity space of this dwelling. In respect of overshadowing, whilst this neighbour is located to the north of the application site, and the proposed extension would result in a degree of overshadowing to this neighbour, particularly during the evening and winter months. Nevertheless, given the depth of the extension, at approximately 3.8m, the additional degree of overshadowing created by the hipped roof, having regard to the distance from the shared boundary with 6 Sycamore Close, is not considered to result in the unacceptable loss of light or overshadowing to a degree that would justify the refusal of this planning application.

In respect of privacy and overlooking, as a result of the depth of the extension, the proposal reduces the degree of overlooking from the original dwelling, particularly from the first floor windows to the area of garden immediately next to the dwelling. In addition, due to the orientation of the dwelling, it is not considered that the windows within the rear elevation have any unacceptable impact upon overlooking to this neighbour.

Notwithstanding these windows, concerns have been raised in regards to two windows that have been installed on the side elevation of the dwelling. The smaller window provides views towards the blank side elevation of 6 Sycamore Close and has no unacceptable overlooking impact towards this neighbour. The larger window serves the kitchen / dining area of the extension and has a lintel height of 1.9m from ground level. This window provided views towards the shared boundary with 6 Sycamore Close, however due to the existing boundary treatment between the application site and this neighbour, it is not considered to provide any views that would detrimentally impact upon the privacy of this neighbour.

7 Oakwood Close

Having regards to overshadowing and loss of outlook, the extension is of the same depth as previously approved and is located approximately 9m from the shared boundary at its closest point, extending to approximately 12m. The extension is located approximately 26.5m from the rear elevation of this dwelling. Whilst it is acknowledged that 7 Oakwood Close is located at a lower ground level than the application site, it is considered that given the separation distance between the extension and the shared boundary and rear elevation of the neighbouring dwelling, these neighbours are not unacceptably impacted by the extension in terms of overshadowing and loss of outlook to a degree that would justify the refusal of the application on this basis.

Having regards to privacy and overlooking, concerns have been raised as to the level of overlooking from the proposed extension, in particular from the first floor windows contained within the extension. As aforementioned, the rear elevation of the extension is

located approximately 26.5m from the rear elevation of 7 Oakwood Close. In respect of privacy and overlooking, the Councils Residential and Householder SPG states the key principles for development to adhere to, including *inter alia* a minimum distance of 21m between opposing windows in habitable rooms should be achieved. Whilst noting that the application property is located at a higher ground level than 7 Oakwood Close, the rear elevation and windows contained within are located in excess of 21m from the habitable rooms of 7 Oakwood Close. Consequently, whilst the concerns raised regarding overlooking and loss of privacy are acknowledged and noted, the extension and its associated windows are considered to be located at a sufficient distance from the habitable rooms of 7 Oakwood Close to result in have no unacceptable overlooking or loss of privacy impacts.

8 Oakwood Close

Having regards to overshadowing and loss of outlook, the application site is located at a higher ground level than this neighbour to the rear of the site and is visible from the private amenity space and rear windows of this dwelling. Nevertheless, despite the differences in ground levels, the extension is set off the shared boundary with 8 Oakwood Close by approximately 8.5m at its closes point and is approximately 24m from the rear elevation of this dwelling. This dwelling is located at a lower ground level than that of the application site, resulting in an increased degree of prominence of the extension. Nevertheless, given that the revised proposal would result in the reduction of the wall plate by approximately 1m, and the separation distance between the application site and this neighbour, whilst the revised extension and new roof form would be visible, the revised scheme is not considered to unacceptable impact upon this neighbour in terms of loss of outlook and overshadowing to a degree that would justify refusal of the application.

In respect of privacy and overlooking, a minimum distance of 21m between opposing, habitable rooms should be achieved, as aforementioned. The proposed extension and rear windows are located approximately 26m from the rear windows contained within 8 Oakwood Close, therefore the proposal would not unacceptably overlook, or result in an unacceptable loss of privacy to this neighbour. In addition, a degree of overlooking is expected within residential contexts such as this, and the impact upon this neighbour in terms of privacy and the degree of overlooking was previously considered acceptable.

5, 4, 3, 2 & 1 Sycamore Close

These neighbours relate to the townhouses to the north of the application property, and whilst they do not share a boundary with the application site, concerns have been raised in regards to the extension, therefore the impact of the extension upon their neighbouring amenity will be considered.

In regards to loss of outlook and overshadowing, whilst the application site is located at a higher ground level than the private amenity spaces of these dwellings, given that the boundary of 5 Sycamore Close is located approximately 9.6m off the boundary with 7 Sycamore Close, and is separated by the existing boundary treatments, it is not considered that the extension, comprising of the revised hipped roof, would have an unacceptable impact in terms of overshadowing, and given the orientation of the rear windows of neighbouring properties, has no material impact in terms of loss of outlook, whilst acknowledging the visibility of the extension from these private gardens,

Consequently, the proposal would not have an unacceptable impact upon the amenity of these neighbours. With regards to overshadowing, the extension would be located to the south of these neighbours, and whilst the application site is located at a higher ground level, given the separation distance, the appropriate depth of the extension and the reduction of the wall height, it is not considered that the revised extension and hipped roof would result in an unacceptable degree of overshadowing to these neighbours.

Having regards to privacy and overlooking, the principal views offered from the extension relate to the east facing windows contained within the rear elevation of the extension, and due to the orientation and depth of the extension, have no material impact upon these neighbours in terms of overlooking and loss of privacy. Nevertheless, as noted, two new windows have been installed in the north facing side elevation of the extension, and concerns have been raised as to the potential overlooking impacts resulting from these. In terms of the smaller window serving the kitchen, this provides limited views due to it being obscured by the side elevation of 6 Sycamore Close, therefore acceptable. With regards to the larger window serving the kitchen / dining area of the extension, it has a lintel height of 1.9m from ground level, and provides views towards the shared boundary with 6, Sycamore Close. Nevertheless, due to the existing boundary treatment between the application site and 6 Sycamore Close, this window does not result in any unacceptable impacts in terms of overlooking and loss of privacy to these neighbours.

Dwellings located on Uplands Crescent and 9 & 10 Oakwood Close

These neighbours are located to the north and north-east of the application property, and whilst they do not share a boundary concerns have been raised in regards to the extension, therefore the impact of the extension upon their neighbouring amenity will be considered.

In terms of loss of outlook and overshadowing, these neighbours are located in excess of 35m from the extension, and whilst it is acknowledged that the extension is located at a higher ground level, given the separation distance between the extension and these neighbours, the revised scheme is considered acceptable, and would have no unacceptable impact upon these neighbours in terms of overshadowing and loss of outlook.

Due to the orientation of the dwelling and separation distance, it has no unacceptable impact in terms of overlooking and loss of privacy to these neighbours.

Amenity Space

The Councils Residential and Householder SPG states that for houses, a minimum of 20 sq. m amenity space per person should be provided, and the majority should be private garden space. The extended dwelling would contain four bedrooms, equating to a minimum of 80sqm of amenity space to be provided. The extension has resulted in the loss of amenity space, however approximately 125 sq. m of amenity space has been retained to serve the extended dwelling and its occupants, therefore the proposal is compliant and acceptable in terms of amenity space provision.

Parking Provision

In relation to any highways and parking issues, it is acknowledged that although the proposal increases the size of the dwelling from a three to a four bedroom property, this

does not result in any additional on-site car parking requirement under the Council's adopted Parking Standards SPG. In addition, the proposal does not affect the existing on-site car parking arrangement to the front of the dwelling. As such, the proposal does not cause any detriment to highway safety.

Green Infrastructure and Biodiversity enhancement'

Policy MD9 'Promoting Biodiversity' of the Adopted LDP requires new development to conserve and where appropriate, enhance biodiversity interests unless it can demonstrate that:

1. The need for the development clearly outweighs the biodiversity value of the site;
2. The impacts of the development can be satisfactorily mitigated and acceptably managed through appropriate future management regimes.

Para. 6.4.5 of Planning Policy Wales (Edition 11, 2021) states that :

"Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity..... "

Furthermore, Planning Policy Wales Edition 11 (PPW11) Chapter 6, as amended October 2023, places increased emphasis on the protection and enhancement of the natural environment. It states that all developments must achieve a biodiversity benefit and also that Green Infrastructure Statements should accompany all planning applications albeit that this will be proportionate to the scale and nature of the development proposal.

In this case a Green Infrastructure Statement is not considered necessary due to the minor nature of the development which does not proposed the loss of any existing Green Infrastructure such as trees or vegetation. Notwithstanding this, PPW11 requires the development to provide a biodiversity benefit. The agent has provided an amended plan which has proposed the installation of two bird boxes on the chimney of the dwelling, which is considered an appropriate and proportionate biodiversity enhancement measure for this proposal, the implementation of which shall be secured by condition.

Enforcement Action

As aforementioned, this application is partly retrospective following an investigation undertaken by the Council's Planning Enforcement Team, which identified that the extension had been built contrary to the approved plans, of which were also inaccurate. This application therefore seeks to regularise this breach of planning control.

In order to ensure that the plans approved under this planning application are implemented, the agent has confirmed the agreement of a six month timeframe from the date of this decision for the implementation of the plans approved under this application, comprising of the reduction of the wall height of the extension, and the installation of the hipped roof in accordance with the submitted plans.

However, the extension has been started (implemented) and the authority will require, despite the comments made by the agent, the completion of the new extension, in so far as it relates to the reduction of the wall height of the extension and the installation of the hipped roof in accordance with the submitted plans.

In order to ensure that this timeframe will be met and to provide certainty, it is considered necessary at this stage to seek authorisation to serve an Enforcement Notice to ensure that the specified works which form part of any planning permission, if approved, are completed within a reasonable timeframe. Officers will monitor the situation on site to ensure that works are carried out on site within 2 months of the planning permission in order to ensure that the agreed 6 month timeframe is met. Should appropriate works not be undertaken officers will issue an Enforcement Notice. This is considered to be a proportionate action in view of the willingness of the applicant to carry out works should planning permission for this amended scheme be forthcoming.

Other Matters

Concerns have been raised in regards the neighbour consultation procedure, however it is considered that the statutory procedure with regards to the consultation of neighbouring properties has been sufficiently undertaken.

The impact upon property values has also been noted, however this is not a material consideration in the determination of planning applications therefore has not been considered.

Complaints were also raised as to the number of resubmitted plans during the course of the application, however there is no policy or guidance which limits the number of amendments to be submitted during the course of a planning application and is instead assessed on a case by case basis.

Concerns regarding the lack of enforcement action have also been raised, however it is considered that the breach has been sufficiently investigated, and enforcement action undertaken where required.

The possibility of future development, such as the installation of a dormer window or roof lights to the rear have also been raised, however this application can only consider what has been proposed as part of the proposed plans. Should the plans deviate from the approved plans, then the appropriate enforcement action will be undertaken to rectify the breach.

Concerns regarding the use of taxpayer money and council resources has also been raised, however this is not a material planning consideration therefore has not been considered in the determination of this application.

RECOMMENDATION

APPROVE Subject to the following conditions:

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:

Site Location Plan

AMENDED PL1100 Rev 01 - Proposed Floor Plans

AMENDED PL1200 Rev 01- Proposed Elevations

AMENDED PL400 Rev 01- Proposed Site Plan

Reason:

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

3. The biodiversity enhancement measures set out in plan ref: AMENDED PL1200 Rev 01- Proposed Elevations comprising of the installation of two bird boxes to the side elevation of the dwelling shall be carried out in full within one month from the date of this decision notice and thereafter retained in accordance with the approved details whilst the development remains in existence.

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.

AUTHORISE ENFORCEMENT ACTION:

- (1) The Head of Legal Services be authorised to serve an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) to require:

(i) The removal of the development; or

(ii) the completion of the development in accordance with planning permission 2023/00337/FUL.

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

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 and Future Wales – the National Plan 2040.

Having regard to Policies SP1 (Delivering the Strategy), MD2 (Design of New Development), MD5 (Development Within Settlement Boundaries) and MD9 (Promoting Biodiversity) of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and Future Wales – the National Plan 2040 and Supplementary Planning Guidance on Residential and Householder Development; and national guidance contained in Planning Policy Wales (11th Edition), and TAN12 (Design); the revised proposal is considered acceptable in terms of the design and visual impact, impact up on neighbouring properties, parking, amenity space and will secure biodiversity enhancements.

Having regard to the Council's duties under the Equality Act 2010 the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic.

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.

The appropriate marine policy documents have been considered in the determination of this application in accordance with Section 59 of the Marine and Coastal Access Act 2009.

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.

7, Sycamore Close, Llandough, Penarth, Vale Of Glamorgan, CF64 2NP



Site Plan shows area bounded by: 317134.97, 172597.26 317276.39, 172738.69 (at a scale of 1:1250), OSGridRef: ST17207266. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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