

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : 22 February 2024

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:

2023/0008/PV	AC	WM Morrisons Supermarkets Ltd, Penny Way, Barry. CF63 4BA	Installation of roof top PV's
2023/0657/BN	A	Halfway Tree, Craig Penllyn. CF71 7RU	Internal renovation
2024/0001/BN	A	Croes Leiky, St. Brides Super Ely. CF5 6EZ	Balcony construction to first floor elevation
2024/0008/BN	A	5, Bingle Lane, St. Athan. CF62 4LH	Erection of two storey extension to the existing dwelling with the inclusion of a single storey porch / lobby entrance
2024/0009/BR	AC	Ysgol Pen Y Garth, Redlands Road, Penarth. CF64 2QN	Form new reception/entrance in to the school.
2024/0010/BN	A	42, Heol Y Sianel, Rhoose. CF62 3ND	Integral Garage conversion to habitable room
2024/0011/BN	A W	48, Fonmon Road, Rhoose. CF62 3DZ	Single storey rear extension to provide new lounge / study / utility room, re configure exiting bungalow arrangements

2024/0012/BN	A	17, Teifi Drive, Barry. CF62 7TL	Re roof
2024/0014/BR	AC	Copper Beech, Port Road, Wenvoe. CF5 6AD	Single Storey rear extension, Single storey extension to form an additional bedroom and gym, part garage conversion, internal alterations
2024/0015/BR	AC	3, Greenmeadow Close, Dinas Powys. CF64 4QX	Demolition of existing garage & construction of new storage area with one bedroom self contained studio
2024/0016/BN	A W	12, Sycamore Crescent, Barry. CF62 9BU	Ground floor single story extension
2024/0017/BR	AC	The Vines, 22A, Evenlode Avenue, Penarth. CF64 3PD	Proposed replacement dwelling with associated hard and soft landscaping works and outbuilding
2024/0018/BR	AC	Bronwen, St. Brides Major. CF32 0SA	Demolishing an existing two-storey garage. The current garage is on the upper storey. The current lower storey is used for nothing and is just blockwork as part of the structure. We will then replace it with a new two storey structure. The upper storey will still be a garage and store for outdoor equipment (e.g. bikes). The lower storey will be a home office and extended slightly into the garden.
2024/0019/BN	A W	14, Britway Road, Dinas Powys. CF64 4AF	Extension to the rear of the property and internal alterations
2024/0020/BN	A W	Navigator Cottage, Llancarfan. CF62 3AE	Single storey extension

2024/0021/BN	A	14, Elan Close, Barry. CF62 7LJ	Take down supporting wall, enlarge opening to rear of property and part conversion of integral garage
2024/0022/BN	A W	16, Dingle Road, Penarth. CF64 2TW	Single storey rear extension & internal alterations
2024/0023/BN	A	Pear Tree House, Llysworney, Cowbridge. CF71 7NQ	Removal of load bearing internal wall to kitchen
2024/0024/BN	A W	14, Harding Close, Llantwit Major. CF61 1GX	Single storey rear extension & terrace
2024/0025/BN	A	5, High Meadow, Llantwit Major. CF61 1RQ	Re roof, bathroom and kitchen alterations
2024/0027/BR	AC	Llancadle House, Llancadle. CF62 3AQ	Single storey rear extension, roof terrace and external patio structure
2024/0028/BN	A	Thistlefield, Primrose Hill, Cowbridge, CF71 7DU	Construction of a rear single storey extension including alterations to first floor bedroom layout and partial ground floor
2024/0029/BN	A	The Cottage, Newton, Cowbridge, CF71 7RZ	Detached double garage for garage and utility on ground floor. first floor for storage only (no stairs)
2024/0030/BN	A	10, Chantry Rise, Penarth. CF64 5RS	Kitchen / diner knock through
2024/0031/BN	A	110, Wordsworth Avenue, Penarth. CF64 2RP	Single storey side extension
2024/0033/BN	A	51, St. Pauls Avenue, Barry. CF62 8HU	Install new concrete floors and new insulated ground floors front living room and rear dining room
2024/0034/BR	AC	Llangan Primary School, Llangan. CF35 5DR	Removal of an existing folding partition between the library and conference room and replacement with a 1/2 hour fire rated stud partition

2024/0035/BN	A	3, Cross Common Road, Dinas Powys	Removal of structural walls to kitchen area and installation of steel beams
2024/0036/BN	A	14, Court Close, Aberthin. CF71 7EH	Single storey out building for office, family room and WC.
2024/0039/BR	AC	3, Four Acre, Llantwit Major. CF61 2XN	Loft conversion with dormer
2024/0040/BN	A	Old Post Office, St Nicholas. CF5 6SG	Replacement roof covering
2024/0041/BN	A W	39, Glyndwr Avenue, St. Athan. CF62 4PP	Single storey extension to side
2024/0042/BN	A	26, Bullfinch Road, St. Athan. CF62 4ND	Loft conversion (no dormer)
2024/0043/BN	A	Ty Caron, Stag Lane, Llantwit Major. CF61 1YP	Single storey extension to enlarge kitchen, first floor extension over bathroom to form en-suite & replacement windows
2024/0046/BR	AC	8, Somerset View, Ogmore by Sea. CF32 0PP	Demolish conservatory and build two storey extension to rear of property
2024/0048/BR	A	3, Nurston Close, Rhoose. CF62 3EF	Conversion of garage and additional small extension to provide new bedroom, shower room & existing porch reconfiguration
2024/0049/BN	A	3, Orchard Way, Gileston. CF62 4HY	Remove old roof and replace with new.
2024/0051/BN	A	Rose Cottage, Cross Common Road, Penarth. CF64 3UU	Removal of walls and rsj installation
2024/0056/BN	A	42, Llanmaes Road, Llantwit Major. CF61 2XF	Single storey rear extension

(b) Building Regulation Applications - Reject

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

2024/0013/BN	R	15, Brookside, Treoes. CF35 5DG	Internal alterations to create ground floor cloakroom in existing kitchen space.
2024/0026/BN	R	1, Castell Bach Cottages, Clawdd Coch. CF71 7UP	Double storey extension to rear to enlarge kitchen / bedroom
2024/0032/BN	R	16, Hensol Villas, Hensol. CF72 8JZ	Single storey extension to front, convert garage to utility, demolish existing conservatory and construct new single storey rear extension
2024/0037/BN	R	3, Vale View Close, Llandough, Penarth, CF64 2QB	Garage conversion to create double bedroom on mezzanine floor with extra lounge area below

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

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

2024/0002/AI	A	Woodlands, Welsh St. Donats. CF71 7SS	Replacement of existing conservatory roof with a Warm Roof System (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)
2024/0003/AI	A	1, Clos Tawe, Barry. CF62 7BN	Replacement of existing conservatory roof with a Warm Roof System (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)
2024/0004/AI	A	33, St. Johns View, St. Athan. CF62 4NZ	Replacement of existing conservatory roof with a Warm Roof System (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)

			AMENDED 17/01/2024 - Single storey rear extension (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)
2024/0005/AI	A	Glenholme Farm, Peterston Super Ely. CF5 6NE	Internal structural alterations (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)
2024/0006/AI	R	REFUSED 69, Westbourne Road, Penarth. 3HD	REFUSED Garage conversion
2024/0007/AI	A	Forage Farm Shop & Kitchen, Penllyn Estate Farm, Llwynhelig, Cowbridge. CF71 7FF	Extension to form a commercial kitchen and internal alterations to existing farm shop and restaurant
2024/0008/AI	A	Cardiff International Airport, Rhoose. CF62 3BD	Fit out and rebrand of existing Cafe Ritazza to Tap N Brew
2024/0009/AI	A	74, Whitefarm, Barry. CF62 9EU	Loft conversion with rear dormer and associated works
2024/0010/AI	A	University Hospital Llandough, Penlan Road, Llandough. CF64 2XX	Alterations & refurbishment to the mortuary facilities
2024/0011/AI	A	8, Lynmouth Drive, Sully, Penarth. CF64 5TP	New detached dwelling
2024/0012/AI	A	3, Station Terrace, East Aberthaw. CF62 3DE	Single storey rear extension, loft conversion, internal structural alterations and construction of a detached garage (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)

2024/0013/AI	A	Dinas Powys Murch Junior School, Fair Oaks, Dinas Powys. CF64 4QU	1 no. single storey modular school building
2024/0014/AI	A	Pen Y Bryn Farm, Llanmaes. CF61 2XR	Construction of a new detached dwelling
2024/0015/AI	A	Tesco Store, Culverhouse Cross. CF5 6XQ	Installation of a new bakery concession and associated works
2024/0016/AI	A	3, Park Road, Penarth. CF64 3BD	Single storey extension, garage extension and internal modifications
2024/0017/AI	A	3, Nyth Yr Eos, Rhoose. CF62 3LG	Replacement of conservatory roof to solid roof and internal structural alterations (works to incorporate material alterations to structure, controlled services, fittings and thermal elements)

(d) Section 32 Building Act, 1984

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

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

- 2020/0658/BR
- 2020/0686/BR
- 2020/0695/BR
- 2020/0725/BN
- 2021/0039/BR
- 2021/0057/BR
- 2021/0092/BR

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE : **22 February 2024**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

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 |

2014/00042/3/C D	A	Opposite Hensol Villas, Hensol	Discharge of Conditions 4 (wildlife and habitat protection and management plan), 5 (Reptile Strategy), 6 (Invertebrate Strategy), 9(Programme of archaeological work), 11 (Reptile/amphibian receptor site), 15 (Tree protection) and 21 (Invasive plants). Planning permission ref: 2014/00042/FUL - Construction of a two storey football centre with parking
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2018/01420/4/C D	A	Monty Smith Ltd, Windsor Road, Penarth	Discharge of Condition 15 (Remediation scheme approved by Condition 14). Planning permission ref: 2018/01420/FUL - Demolition of the former garage and erection of a 4-storey building comprising 21 residential units with undercroft parking, access arrangements, and associated works
2020/01382/FUL	R	Land on North side of Cnepyn Lane, Peterston Super Ely	Proposed barn/storage unit for agricultural use in conjunction with stable block as approved 2019/00839/FUL
2020/01517/FUL	A	Persondy, Treoes	Ground Floor Rear Extension, First Floor Side Extension, Creation of First Floor above existing Milking Parlour, Internal and External Alterations. Detached Garage
2022/00120/FUL	R	Site adjacent to 8, Cliff Street, Penarth	Construction of new two storey two bedroom dwelling house plus all associated works
2022/00416/2/N MA	A	133, Lavernock Road, Penarth	Non Material Amendment - Remove approved second vehicle crossover and dropped kerb. Close gap in wall and reinstate pedestrian gate at location of approved second crossover. Widen existing crossover and dropped kerb to permitted width of 4.8m. Planning permission ref: 2022/00416/FUL - Ground floor rear and side extension. Removal of existing chimneys and replacement of existing roof covering. Partial

			removal of front boundary wall with new crossover to provide second driveway vehicular entrance
2022/00516/FUL	R	Hafod, Llantrithyd Road, Llantrithyd	Extensions to existing dwelling (living room and bedroom), with internal alterations to layout
2023/00109/FUL	R	Lower Greenway Farm, Bonvilston	Erection of an ancillary building for 2no. biomass boilers
2023/00110/LAW	R	Lower Greenway Farm, Bonvilston	To certify the existing use of the units at Greenway Farm as B2 (General Industrial) and B8 (Storage) is Lawful Development
2023/00330/FUL	A	73, Eastgate, Cowbridge	Works to bring vacant shop back into use, including reinstatement of original first floor window openings facing the west side and Eastgate. New slate roof, removal of ceiling and first floor installed to form a separate office space with internal stair access and new roof lights and first floor window to the rear.
2023/00331/LBC	A	73, Eastgate, Cowbridge	Works to bring vacant shop back into use, including reinstatement of original first floor window openings facing the west side and Eastgate. New slate roof, removal of ceiling and first floor installed to form a separate office space with internal stair access and new roof lights and first floor window to the rear.

2023/00338/FUL	R	The Willows, Llancarfan	Increase of ridge height, new dormer additions and internal alterations
2023/00363/FUL	R	Pen Y Bryn, Pen y lan Road, Aberthin	Proposed orangery
2023/00364/LBC	R	Pen Y Bryn, Pen Y Lan Road, Aberthin	Orangery off the recent oak framed extension
2023/00459/FUL	R	Moat Farm, Llysworney	Proposed conversion of former cowshed to a 2-bedroom dwelling
2023/00572/FUL	A	Tyn Y Cae, Pendoylan Road, Pendoylan	Proposed demolition of existing dwelling and stable, and construction of replacement dwelling, reinstatement of garden to agricultural land, and associated works
2023/00611/FUL	A	67, Plymouth Road, Penarth	Remove three Victorian single glazed sash windows at the rear of the house and replace them with 3 like-for-like upvc double glazed sash windows
2023/00703/FUL	A	7, Cog Road, Sully	Extend the property by adding a first floor and ground floor rear extension. Alterations to fenestration. Enlargement of existing garage.
2023/00823/FUL	A	Land at rear of 12F, Atlantic Trading Estate, Barry	New crossover access way to land to the rear of Unit 12F Atlantic Trading Estate
2023/00984/FUL	A	1, Kestrel Way, Penarth	Single and two storey side and rear extension to existing detached dwelling
2023/00987/FUL	A	Cross Cottage, Stallcourt Close, Llanblethian, Cowbridge	Proposed part one storey and part two storey side extension and associated works

2023/01006/LAW	A	Brookside Farm, Llandough, Cowbridge	Non compliance with agricultural occupancy condition 1 of CORD 36/70
2023/01026/FUL	A	7, Victoria Square, Penarth	Boundary railings, garden changes and rear gate
2023/01034/FUL	R	Flat 2A, St. Maeburne, 15, Marine Parade, Penarth	Alteration/extension to existing garage (store)
2023/01036/PNR	A	Penarth Station, Penarth	Installation of a new platform and associated access slope
2023/01047/FUL	A	5, Ffordd Wallace, (Plot 802, Persimmon Development Site), East Quay, Barry	Roller garage doors on the current car port
2023/01054/FUL	A	Clifton House, South Terrace, Southerndown	Replace the oil fed boiler (1500L oil tank in back garden) with an Air-To- Source Heat Pump
2023/01066/FUL	A	Land at Dunlin Court, Barry	Proposed extension and renovation of bin stores and extinguishment of the adopted highway over parking bays and verge areas
2023/01068/FUL	A	Land at Dunlin Court, Barry	Proposed extension and renovation of bin stores and extinguishment of the adopted highway over parking bays and verge areas
2023/01069/FUL	A	Land at Avocet Court, Dunlin Court, Barry	Proposed extension and renovation of bin stores and extinguishment of the adopted highway over verge areas

2023/01092/FUL	A	Thorn Cottage, Westgate, Cowbridge	Proposed driveway alterations, comprising insertion of new rails above existing boundary walls and new gated access, all with associated external works
2023/01093/FUL	R	300, Holton Road, Barry	Change of use of first and second floor flat at 300 Holton Road to three flats with first floor rear extension
2023/01096/FUL	A	10, Wordsworth Avenue, Penarth	Single storey side extension
2023/01107/FUL	R	20, Plymouth Road, Barry	Change of use from a hairdressers (Class E) to a dwelling house (Class C3(a) Studio Apartment). The proposal involves utilising the extra space underneath the ground floor. Creating a mezzanine bedroom and splitting the apartment into 3 levels.
2023/01111/FUL	A	Marks And Spencer Plc, Culverhouse Cross	Works to car park including the installation of eight electric vehicle charging bays, six with their own dedicated charging unit and one pair sharing a charger, a substation enclosure and associated electrical equipment
2023/01114/FUL	R	298, Holton Road, Barry	Conversion of rear annex from 1 to 2 flats
2023/01129/FUL	A	Unit 29, Vale Business Park, Llandow	Refurbishment and alterations to existing commercial factory unit

2023/01137/FUL	A	Ashdene Manor, 10, Bridgeman Road, Penarth	Proposed amendments to planning permission Ref 2018/00136/FUL dated 01/02/2019, comprised of changes to pedestrian entrance gate, front boundary wall and drainage layout
2023/01141/FUL	R	Ishton Barn, Lon Cwrt Ynyston, Leckwith	The erection of a garden annex with a glazed connection to the existing structure
2023/01143/FUL	A	A B Car Sales, Cardiff Road, Barry	Two storey extension over the existing reception and admin to create office space (including external alterations) and side extension the existing mot/servicing structure
2023/01152/FUL	A	14, Britway Road, Dinas Powys	Single storey rear kitchen extension
2023/01157/FUL	A	The Old Station, Station Road East, Wenvoe	House remodelling and renovations including ground floor extensions, roof extensions via dormers and material alterations
2023/01159/FUL	A	The Moorings, Highlight Lane, Barry	Single storey, pitched roof summer house within garden, ancillary to main house. Elevations finished in a mixture of timber cladding and steel profiled sheeting
2023/01160/FUL	A	1, Baruc Way, Barry	Fixing solar panels to the rear roof of detached house
2023/01164/LAW	A	Navigator Cottage, Llancarfan	Side extension to existing dwelling

2023/01166/FUL	A	21, Hawthorn Road, Barry	Change the use of an existing single storey detached garage to a nail bar
2023/01168/FUL	A	24, Forrest Road, Penarth	Proposed garden room comprising a recreation room, store room and separate WC
2023/01177/FUL	A	11, Min y Mor, Barry	First floor gable extension and dormer to the front elevation and a dormer to the rear, with internal reconfiguration. Raised flat roof over proposed entrance hall. Patio doors to the rear elevation
2023/01185/FUL	R	2, Talbot Terrace, St. Mary Church	Proposed two storey extension to provide kitchen/dining with first floor bedroom
2023/01188/FUL	A	47, Stanwell Road, Penarth	Construct new garden room
2023/01189/FUL	R	1, The Verlands, Cowbridge	Construction on new 2 bedroom dwelling
2023/01194/FUL	A	The Paddocks, Bonvilston	Two storey extension to the front and single storey extension to the rear of the property
2023/01254/LAW	A	4, Yr Efail, Treoes	Proposed two storey rear extension
2023/01260/FUL	A	9, Caynham Avenue, Penarth	Proposed dormer to front elevation - amended design

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: **22 FEBRUARY 2024**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

4. APPEALS

(a) Planning Appeals Received

LPA Reference No: 2022/0908/FUL
Appeal Method: Written Representations
Appeal Reference No: CAS-02961-V0X3H0
Appellant: Matthew & Victoria Barker
Location: 1, The Verlands, Cowbridge
Proposal: Construction of new 3 bedroom dwelling
Start Date: 15 January 2024

(b) Enforcement Appeals Received

None.

(c) Planning Appeal Decisions

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
Decision: Appeal Dismissed
Date: 31 January 2024
Inspector: H Smith
Council Determination: Delegated

Summary

The main issue was considered to be whether the proposal would be a sustainable form of development having regard to national and local policies. The appeal site related to a detached barn that had been converted to holiday accommodation which was located near to the hamlet of Marcross and accessed via a narrow lane with no pedestrian footways. The Inspector identified that although the appeal site was within walking distance of the limited facilities in or near Marcross, it was unlikely that residents would be encouraged to walk or cycle to these facilities, particularly during inclement weather and the hours of darkness.

The Inspector identified that to access a wider range of essential facilities, future occupiers would need to travel to Wick and Llantwit Major. She considered that the public right of ways identified by the appellant were generally rural and did not lend themselves to day to day activities to access essential facilities such as schools, shops, work, medical facilities and community/leisure facilities. It was similarly not practical for most people to use the nearby cycle route on a day to day basis.

Whilst there was a bus service, the bus stop serving the route to Llantwit Major would result in a longer walk along a section of road with a narrow footway and no street lighting. As it would be more convenient and practical for future residents to use the car, the proposal was not considered to be in a sustainable location for the development.

The Inspector acknowledged that holiday accommodation operated differently to a permanent dwelling, in that the need to access essential services such as schools, medical facilities and work was significantly less than a permanent dwelling. The surrounding network of walking and cycling routes therefore had more of a leisure purpose than forming a realistic means of providing alternative sustainable transport choices to the car.

It was identified that whilst LDP Policy MD11 permits conversions to residential use where it is demonstrated that the building has been appropriately marketed for other alternative uses, no evidence of marketing had been submitted, including for its current use as holiday let accommodation. It was also considered that the decline in the holiday letting market referred to by the appellant had not been robustly evidenced and there was little detailed information supporting the reasons for the lack of holiday interest in the property. The Inspector was not therefore persuaded that it was unviable as tourist accommodation, or that it could not be successfully marketed as such.

It was therefore concluded that as the proposal would not be a sustainable form of development and would conflict with PPW, and LDP Policies SP1, MD1, MD2 and MD11, the appeal should be dismissed.

(d) Enforcement Appeal Decisions

LPA Reference No:	ENF/2021/0107/PC
Appeal Method:	Written Representations
Appeal Reference No:	CAS-02659-R8F4N6
Appellant:	John Russell Jarrett & Angela Jarrett
Location:	Land adjoining 10, New Barn Holdings, St Athan Road, Flemingston, CF62 4QL
Proposal:	Without planning permission, the material change of use of the Land to the storage of construction items and waste, vehicles and vehicle parts, plant/machinery, containers and other items and structures and operational

development comprising the construction of structures
Decision: Appeal Dismissed
Date: 30 January 2024
Inspector: A McCooey
Council Determination: Committee

Summary

It was directed that the enforcement notice should be corrected and the enforcement notice varied by the substitution of six months as the compliance period.

It was identified that the site was in the countryside to the north of St Athan and at the time of the Inspector's visit, there were vehicles, vehicle parts, tyres, scrap, piles of waste, building materials, a caravan and an oil tank in the open and in open buildings on the site. There were two old vehicles to the front of the dwelling and several more in a garage next to the dwelling, which appeared to be the main workshop.

The appellant had supplied information and aerial photographs dating from 2001 to the present and maintained that the adjoining agricultural land (corresponding with the appeal site) now formed part of the residential unit as a garden area. The Inspector agreed with the Council's conclusion however, that the land subject of the notice had a lawful use for agriculture as it had not been used for residential purposes for 10 years prior to the service of the EN because of the intensification of the storage use in 2016.

It was identified that the question of whether a use was incidental to the enjoyment of the dwellinghouse was a matter of fact and degree, but the nature and scale of the activities were an important consideration. Caselaw had also established that just because an activity was a hobby, it does not automatically follow that it was incidental to the enjoyment of the dwellinghouse. The courts had held that incidental uses should remain at all times ancillary or subordinate to the use of the dwellinghouse.

The appeal on ground (c)

The appellant was a car enthusiast whose hobby was to repair and exhibit classic cars and there was no evidence of commercial activity taking place. The question was whether the claimed hobby use could be described as incidental to the enjoyment of the dwellinghouse.

The Inspector identified that during his visit there remained a considerable number of vehicles and a caravan on site together a large amount of scrap material and tyres and whilst cars were purchased for parts and scrapped, this did not justify the level of scrap and other unrelated material that was present on the site which was not related to any agricultural use. The scale of the site and extent of storage on the land far exceeded what could be reasonably considered to be incidental to the enjoyment of the dwelling. The scale and nature of the storage on the land had materially changed the character of the site and for these reasons, it was concluded that a material change of use had occurred and the appeal on ground (c) failed.

The appeal on ground (d)

It was identified that the aerial photographs showed that there was limited storage activity on the site until 2016, at which point the appeal site began to be used for the storage of the items at a scale well beyond the storage seen in the images from 2007, 2009 and 2013. It was therefore concluded that the breach of planning control commenced in 2016 and enforcement action was therefore taken within the period of ten years beginning with the date of the breach.

The appellant had pointed out that several of the containers on the site could be seen in the image from 2016 and as such had been there for more than 4 years and would be immune from enforcement action. Caselaw referred to the Council had established however that a change of use EN can require the removal of operational development provided it is part and parcel and facilitates an unauthorised use and irrespective of the fact that it has existed for more than 4 years. As it was clear that these containers were used for storage and were part and parcel of the unauthorised use, the Inspector concluded that the EN could therefore require their removal and that the appeal on ground (d) should fail.

The appeal on ground (f)

Whilst the appellant had confirmed that he was willing to comply with the requirements of the EN as he would remove the majority of the structures, unlawful containers, caravans, vehicle parts, building material, windows and any debris from the site, he had requested that a limited number of vehicles and trailers be allowed to remain on the site.

The Inspector however acknowledged the difficulty with this approach in that the land did not have a lawful use for residential purposes and that curtilage was not a use. The intensification in 2016 instituted a change of use from agricultural thereby ending any purported use for a purpose incidental to the enjoyment of a dwellinghouse. The Inspector concluded however that there was no convincing evidence to explain why the original curtilage and buildings were not sufficient for the appellant's hobby to continue and that the appeal on ground (f) should fail.

The appeal on ground (g)

The Inspector noted that the appellant's efforts to clear some items had been hampered by poor ground conditions due to heavy rain and that the LPA had agreed an extension of the time for compliance would be acceptable. It was therefore concluded that an increase of the time for compliance from 4 months to 6 months would be justified and the appeal on ground (g) succeeded to this extent.

Conclusion

It was therefore concluded that the appeal should succeed to a limited extent on ground (g) and the enforcement notice (as varied) was upheld.

(e) April 2023 – March 2024 Appeal Statistics

		Determined Appeals			Appeals withdrawn /Invalid
		Dismissed	Allowed	Total	
Planning Appeals (to measure performance)	W	13	2	15	-
	H	-	-	-	-
	PI	-	-	-	-
Planning Total		13 (87%)	2 (13%)	15	-
Committee Determination		1	1	2	-
Other Planning appeals (inc. appeal against a condition)		-	-	-	-
Enforcement Appeals	W	4	-	4	2
	H	-	-	-	-
	PI	-	-	-	-
Enforcement Total		4	-	4	2
All Appeals (excludes non validation appeals)	W	17	2	19	2
	H	-	-	-	-
	PI	-	-	-	-
Combined Total		17 (89%)	2 (11%)	19	2

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 : **22 February 2024**

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

2022/00314/TPO	A	Tesco Extra, access roads Tesco and Marks and Spencer, Culverhouse Cross	Works to trees covered by Tree Preservation Order No. 20 2004
2023/00619/TPO	A	Plymouth House East, Dimlands Road, Llantwit Major	TPO - No. 03, 1977-Mature Ash tree in rear garden - To crown lift and remove any dead/diseased limbs from Ash die back
2023/01155/TPO	A	Pendinas, Southra, Dinas Powys	Work to Trees covered by TPO No.14 of 1973: T1 and T2 - Remove dead material and reduce overall crown by 4-6m, Prune to clear stem of epicormic growth. T3 - Remove dead material and reduce vulnerable limbs

2023/01219/TCA	A	1, Y Cerigos, Barry	Work to Tree(s) in a Conservation Area ; Cut down large Leylandii tree to ground level. Apply weed killer to tree stump. Remove any Green Waste. Looking into replacing the tree with either a Adams Crabapple, Silver Burch or Japanese Maple
2023/01227/TPO	A	Maes Yr Ysgol, Barry	Work to Tree(s) covered by Tree Preservation Order 1986, No. 6 : Trees - Crown lifting trees/Hedge adjacent to Butrills Road. Barry, Rear of Maes yr Ysgol
2023/01231/TPO	A	8, Hawthorn Close, Dinas Powys	Work to Tree(s) covered by Tree Preservation Order 1986, No. 7 : Oak, side of property - Reduce previous managed lower growth back to suitable natural target points within 0.5m of historic cuts, reduce remainder of crown by 2-3m to suitable growth points to leave a flowing branch line all over to match these lower historic points. Remove any unstable deadwood over 25mm in diameter. Remove one major low branch over highway, (see pic A) to main stem (approximately 100mm in diameter), and raise remaining foliage tips to 5m above highway
2023/01233/TCA	E	31, Victoria Road, Penarth	Work to Tree(s) in a Conservation Area : T1 Robinia fell to ground level. T2 Hymalayan Birch Fell to Ground Level.

2023/01264/TCA	A	62, Plymouth Road, Penarth	Work to Tree(s) in a Conservation Area: Heavy reduction of Sycamore in back garden, approx. 20% reduction
2023/01267/TCA	A	Nouveau, 18A, Highwalls Road, Dinas Powys	Work to Tee(s) in a Conservation Area: T1 - Beech - Reduce crown by 25%. T2 - Maple - Reduce crown by 25%. T3 and T4 - Lime - Reduce crowns by 30%
2024/00083/TPO	A	Murch Junior School, Fair Oaks, Dinas Powys	Prune back T1 (cherry) and fell tree T2 (red oak). The trees are blocking access for vehicles to the construction area in relation to 2023/00493/FUL, for a new classroom building at the school. The two trees are to the north-west of the library
2023/01220/TPO	A	Cedar Road and Chestnut Avenue, St. Athan	Work to Tree(s) covered by Tree Preservation Order 2007, No. 15, Mixed native trees. G3 - Prune the tree's tertiary branches to provide 1m clearance with the street lamp, and ensure that a 45 degree from vertical splay is clear so as to allow light to reach the underlying pavement unobstructed. G5 - Prune trees to provide a clearance from the garages

THE VALE OF GLAMORGAN COUNCIL

PLANNING COMMITTEE: **22 FEBRUARY 2024**

REPORT OF THE HEAD OF SUSTAINABLE DEVELOPMENT

7. ENFORCEMENT ACTION

LAND AND BUILDINGS AT FIELD TO THE EAST OF MIDDLE HILL, LLANCARFAN

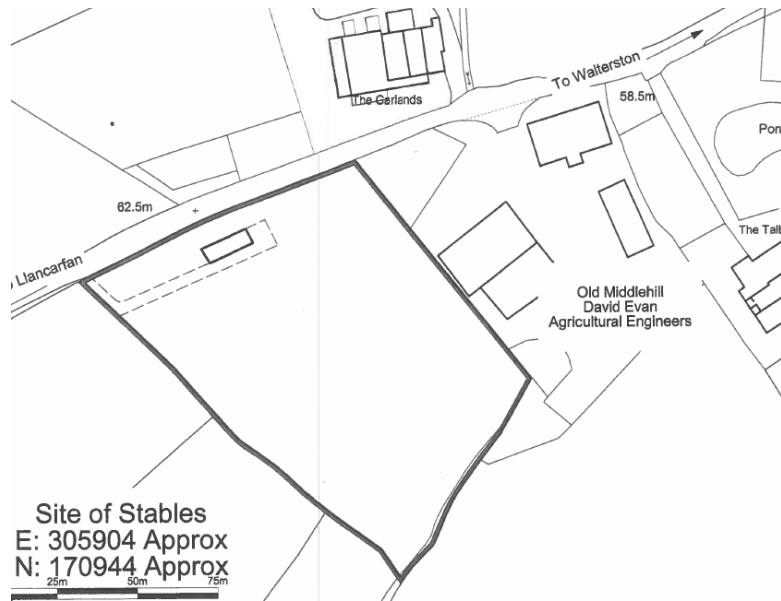
EXECUTIVE SUMMARY

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 the uncontrolled development of a general purpose outbuilding/store in the countryside at Middle Hill, Llanccarfán. In addition to the building, two storage containers have been sited on the land, connected by a corrugated metal canopy structure.

A caravan is also permanently sited on the land which, given the lack of agricultural activity undertaken, has the potential to be used for unauthorised residential purposes and be unacceptable in this location. Authorisation is also sought to pursue legal proceedings in the event that the Enforcement Notice is not complied with.

Background

1. A complaint was received by the Local Planning Authority on 25th July 2022, regarding the unauthorised use of land and stables for leisure purposes, located in the field to the east of Middle Hill, Llanccarfán.
2. The site is located in the countryside, within the Nant Llanccarfán Special Landscape Area (SLA) as well as a mineral safeguarding area for Limestone Category 2, as identified by the Vale of Glamorgan Adopted Local Development Plan (LDP) 2011 - 2026. The land is located approximately 0.5 miles east of Llanccarfán and is accessed via rural lanes.
3. Whilst the land is agricultural, planning permission was granted in 2018 for the erection of a stable block, comprised of two central stables, a tack room and fodder store, as well as the construction of a 3m wide hardcore access track. A condition was imposed on the planning permission to require that the stable is used for the private stabling of horses only and to ensure that the building is not used for livery or any commercial purpose. A location plan taken from application ref: 2018/00097/FUL is included below.



Details of the Breach

4. Following an initial site inspection, it was noted that the stable block had not been constructed in accordance with the approved plans. Whilst the stable followed approximately the same footprint, two new openings had been added, including a UPVC door to the rear. Internally, the stable block has also been insulated and split into three separate rooms, containing construction tools, materials, and miscellaneous items. A caravan had also been sited on the land as well as two storage containers, connected by a canopy. Photographs of the stable, caravan and containers, in addition to the approved plans are included below.

Approved Stable Plans

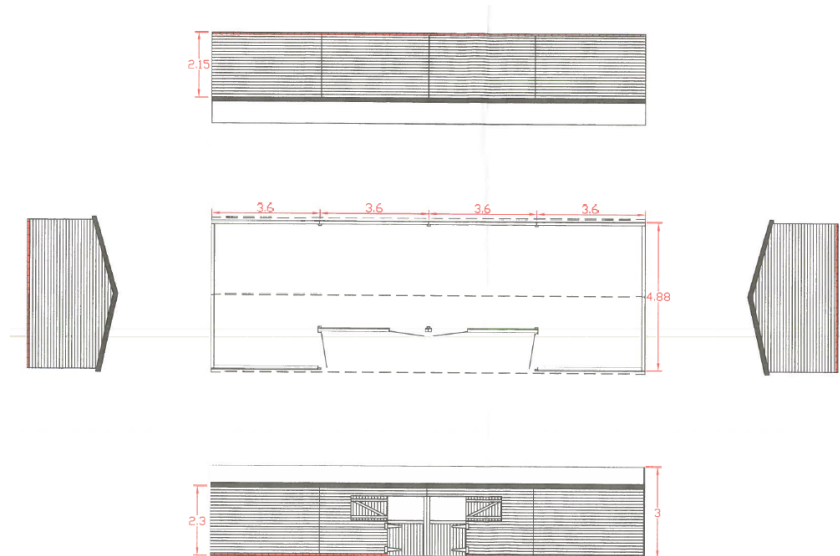


Photo of Site



Photos of Stable Block as Built - 02/09/2022.





Photo of Inside Stable – 21/04/2023.



Photos of Containers





Photos of Caravan



5. Given the discrepancies between the approved plans and finished stable block, the owner attempted to regularise the changes with a non-material amendment (NMA) approved on 31/07/2023 (app ref: 2018/00097/1/NMA). Notwithstanding this, given the building is not used for the private stabling of horses and the wider site is used as a leisure farming plot, it is not considered to benefit from planning permission as the original consent has not been implemented. There is therefore the risk that if further action is not taken to regularise the position, the existing building would become lawful after 4 years and therefore be immune from any enforcement action. This would mean that there would be no control over the future use of the building.

Action Pursued to Date

6. Upon receipt of the complaint, an initial site meeting was held on 2nd September 2022. The owner was written to and advised that it appeared on site that the building was not being used for its intended purpose and nor was the use of the building for the storage of machinery and miscellaneous items considered ancillary to the agricultural use of the land. Given the lack of any agricultural activity, apart from one raised planter used to grow vegetables, the owner was informed that the Council did not find any justification for the containers or caravan sited on the land and they would therefore need to be

removed. In terms of the changes to the roof profile and fenestration of the stable, the owner was also informed that if the use were to revert to agricultural purposes, the changes could be regularised with an NMA.

7. In further email correspondence, the owner stated that the caravan was required as a welfare unit for anyone working on site to complete the stable building and carrying out any other activity. In a later site visit on 21st April 2023, the owner confirmed the storage containers were required to remain as secure storage for expensive and more vulnerable tools and pieces of machinery, that could be stolen if kept in the timber stable. At this time, the landowner had assembled scaffolding within the stable to make pens filled with hay and there were also a small number of sheep grazing the field.
8. Following the visit of 21st April 2023, the owner was advised that whilst the Council were unlikely to find the use of the stable as a general-purpose agricultural outbuilding unacceptable, this did not accord with the original proposal, which was described as a stable block and conditioned to restrict the use for the private stabling of horses only. Given the specific nature of the approved use, the landowner was advised that as it was clearly not their intention to bring horses on to the land and the stable was to be used as more of a general-purpose outbuilding, that it would need to be regularised with a full planning application. The landowner was also advised that they could incorporate a site welfare element within the building, to negate the need for the caravan and that the containers would also still need to be removed due to a lack of identified need and justification for them to remain.
9. The agent on behalf of the owner stated that the building was not being used for agricultural purposes or to stable horses on the dates of the site visits, as it was incomplete on both occasions. However, the approved building should have resembled a simple timber framed stable and not an insulated double skin building, which would be unsuitable for the approved purpose in any case. In any event, the building was considered by officers to be practically complete.
10. The owner's agent was advised in an email dated 2nd June 2023, that on the basis that the Council had not received a business plan, it was clear that the building was not intended for the private stabling of horses and in the absence of any horses on the land, the building was fundamentally not a stable, regardless of whether it would have also been used for purposes ancillary to agriculture originally. To use the stable solely as a general-purpose outbuilding/store when working/visiting the land would not reflect the 2018 description of development and therefore it did not benefit from planning permission, particularly as the site did not form part of an agricultural holding and appeared to be used as a remote leisure plot in the countryside.
11. Notwithstanding the Council's position being made clear to the agent, in that an NMA would not regularise the use of the building as a general-purpose outbuilding/store, the owner proceeded to submit an NMA, which was approved on 31/07/2023. No further action has been pursued to date on the basis that the caravan, containers and stable remain in the same condition.

Whilst livestock were seen during site visits undertaken in December 2022 and April 2023, all livestock were also taken off the land prior to the summer of 2023 and none were seen during visits in June and August 2023. During a recent visit on 31st January 2024 only five sheep were seen on the land.

Planning History

12. The site benefits from the following planning history:

2018/00097/FUL, Address: Field to West of David Evans (Agric) Ltd., Old Middlehill, Llancarfan, Proposal: Erection of stable block to comprise of two central stables, tack room and fodder store and construction of 3m wide hardcore track, Decision: Approved

2018/00097/1/NMA, Address: Field to West of David Evans (Agric) Ltd., Old Middlehill, Llancarfan, Proposal: Non Material Amendment - 1. Provision of 5 no. openings on front (south) elevation 2. Provision of personnel door to rear elevation (north) elevation 3. Provision of personnel door to gable end (east) elevation 4. On front (south elevation) the instep in this elevation has been removed. 5. On the approved elevation drawings, the double stable doors on the front elevation were set back. The building has been constructed with the doors in line with the rest of this elevation. Planning application ref: 2018/00097/1/NMA - Erection of stable block to comprise of two central stables, tack room and fodder store and construction of 3m wide hardcore track, decision: Approved

Policy

Local Development Plan:

13. 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

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 MD9 - PROMOTING BIODIVERSITY

Planning Policy Wales:

14. National planning policy in the form of Planning Policy Wales (Edition 12, 2024) (PPW) is of relevance to the matters considered in this report.
15. 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.
16. The following chapters and sections are of particular relevance in the assessment of this planning application:
17. Chapter 3 - Strategic and Spatial Choices
 - Development in the Countryside (including new housing)

3.60 *“Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.”*
18. 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:

19. The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:
 - Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
 - Technical Advice Note 12 – Design (2016)

Supplementary Planning Guidance:

20. 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

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:

21. 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

22. The principal issue to consider in determining the expediency of whether to serve an enforcement notice in this case is the use of the land in relation to the true purpose of the stable building, as well as whether the caravan and storage containers are considered ancillary to the lawful agricultural use of the land and what the justification is for them to remain. The absence of any biodiversity enhancement or green infrastructure measures at the site is also a consideration, as well as the visual impact and location of the land within the Nant Llancarfan Special Landscape Area (SLA) and a mineral safeguarding area.

Principle of Development

Stable & Land Use

23. Over the course of this investigation, the field within which the stable, caravan and containers are sited has remained vacant and not in use for the most part, apart from a brief period in the spring of 2023 when a modest flock of sheep was brought on to the land around the time of the site meeting that took place on 21st April 2023.

24. However, shortly after this date, all livestock was removed from the land and no sheep were recorded grazing the field over the summer and autumn of 2023, following monitoring visits that took place on June 16th, August 21st, and October 8th. Five sheep were recorded in the field on 31st January 2024. However, this remains a modest flock and is not considered to warrant the retention and use of the stable, containers, and caravan to serve the needs of these few animals.
25. In terms of the stable, the photos included towards the beginning of this report illustrate the fact the stable is used by the landowner to store personal items, tools, and equipment and is still in the process of being insulated and fitted out internally. As such, the existing building is an entirely different construction, being insulated, finished internally with plasterboard, and divided with a number of internal partition walls and is being used as a general-purpose outbuilding as opposed to a stable. Notwithstanding the approval of amended elevation plans (2018/00097/1/NMA), it is not considered that the existing building benefits from planning permission. In the absence of an application which regularises the use of the building as a general store/outbuilding, there is the potential for the building to be used for any other purposes in breach of planning control, which would be an unacceptable position with respect to a building in the open countryside, given that the unauthorised structure would become lawful after 4 years and any unauthorised use would become lawful after 10 continuous years.
26. The landowner has claimed that the reason for the tools and equipment kept inside is because the building is still incomplete and therefore, they have not yet commenced using the building as a stable. However, considering that the building was approved as a basic timber framed stable to provide shelter for horses, it would also have been capable of providing shelter for any livestock without being insulated and made double skinned. Notwithstanding the NMA, the addition of a UPVC door opening to the rear as well as internal partition walls, separating a workshop area and store from the main area of the building generates even greater uncertainty regarding the intended use, particularly given the lack of any established agricultural use or holding on the land.
27. Policy MD1 (Location of New Development) aims to reinforce the role and function of settlements, promote sustainable transport modes, and ensure that new developments do not have an unacceptable impact on the countryside. Furthermore, paragraph 3.60 of PPW 12 highlights the need for development in the countryside to be strictly controlled and to that end, whilst the use of the building as a stable for agricultural/equine purposes is deemed acceptable, the use of the building as a personal store/leisure facility/or any other uncontrolled purpose is not considered justified in such a rural location. Therefore, to prevent the building from being used with no planning control, it is considered expedient to serve an enforcement notice to require the building to be removed.

Containers

28. The two shipping containers at the site sit on top of slabs placed on hardcore and form one structure, as they are connected by a corrugated metal shelter,

erected around a timber frame. The containers are used to store the owner's vehicles, including a quad bike, all-terrain vehicle (gator), and tractor, as well as engine parts, tools and various other items belonging to the owner. It is unclear why three vehicles would be required to be permanently sited within one field in the countryside, which should not require regular maintenance, particularly if sheep were kept grazing the land. Furthermore, it is considered that the stable/outbuilding could be regularised to provide adequate storage of equipment used on the land and any vehicles could be brought on when required. Therefore, it is considered that the containers form an unjustified new development in the countryside and should also be removed from the land to secure compliance with Policy MD1 (criterion 1) and advice contained within PPW 11 (chapter 3).

Caravan

29. The caravan sited on the land currently provides the landowner and any visitors with a place to take shelter, eat, and relax, as well as a WC. However, whilst the owner has argued the caravan was required as a welfare unit during the construction of the stable, the building should now be practically complete and the further work consisting of insulating and fitting the building out to serve as an outbuilding for the owner's enjoyment exceeds what is allowed by the 2018 consent. Therefore, the caravan would no longer be permitted to remain as a temporary / moveable building under Part 4, Class A (Temporary Buildings and Uses) of the Town and Country Planning (General Permitted Development) Order 1995, on the basis that planning permission has not been granted for the works currently being undertaken.
30. Furthermore, while sheep were present on the land in April 2023 and the siting of a mobile caravan during lambing season may be necessary, there is insufficient justification in this case to permanently retain the caravan on the land for 12 months of the year. The field has been visited on three occasions over the summer/autumn of 2023 and no sheep were found to be present on the land. While the field has been split into separate paddocks with timber post and rail fences, the land does not appear to have been used for any agricultural purpose over the summer and autumn months of 2023, during which time the caravan has remained. The reintroduction of a modest flock of 5 sheep during the Winter of 2023/24 is not considered to provide any further justification to retain a caravan permanently on the land.

31. Therefore, it is considered that there is a lack of identified need, given the absence of any agricultural enterprise or activity on the land, save for use of the land for leisure farming purposes. As the caravan is capable of being inhabited as a dwelling in the countryside which could become lawful after 10 years of continuous occupation (after which point the land beneath the caravan would benefit from a lawful residential use), which would be contrary to Policy MD1 (Location of New Development) of the LDP and guidance contained within Chapter 3 of PPW, it is considered expedient to require its removal. Furthermore, the owner could utilise the stable building as a shelter and welfare facility while visiting the land, subject to regularising the proposed use through a suitable planning application as a general agricultural store / outbuilding as opposed to stables. As such, given the availability of this option, there is even less justification to retain the caravan on a permanent basis.

Biodiversity & Green Infrastructure

32. 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. Furthermore, PPW 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. 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.
33. The absence of an application to regularise the outbuilding, means there has been no opportunity to consider appropriate biodiversity mitigation/enhancement or green infrastructure measures at the site, contrary to PPW and Policy MD9 of the LDP.

Visual Impact

34. Despite the rural location, the containers, stable building, and caravan are sited behind the hedge that delineates the land from the lane. Therefore, the development is not prominent from the highway. Furthermore, the development is mainly visible from surrounding agricultural land and from neighbouring private property at the David Evans Agricultural Dealership (DEAL). Therefore, notwithstanding the unacceptable principle of the development and the location within the Nant Llancarfan Special Landscape Area (SLA), the visual impact does not form one of the reasons to take enforcement action.

Mineral Safeguarding

35. Despite the location of the site within a mineral safeguarding area for limestone category 2, the land is in the vicinity of existing residential properties and is located within the Nant Llancarfan SLA. Therefore, extraction in this area is unlikely to ever be carried out, given the impact on residential and visual amenity. As such, the development is not considered contrary to Policy MG22 of the Adopted LDP and therefore, this is also not considered a reason to take enforcement action.

Conclusions

36. Notwithstanding the limited localised visual impact, in the absence of any planning consent which regularises the use of the building as a general agricultural store/outbuilding rather than a stable, there is the potential for the building to be used for any other purposes in breach of planning control, which would be an entirely unacceptable position with respect to a new building in the open countryside and contrary to Policy MD1 (Location of New Development) of the LDP. The existing building would become lawful after 4 years and any unauthorised use would automatically become lawful and immune from enforcement action after a period of 10 continuous years. Therefore, it is considered expedient to require the current building to be removed, to allow the Council to exert control over the use of what should be agricultural land.
37. The structure comprising of two metal shipping containers and a corrugated metal canopy also has no planning control and is used by the landowner as an additional storage facility for his own personal belongings, tools, and equipment, as well as three vehicles. It is not considered that this additional storage facility is justified in addition to the stable, to support one field in the open countryside. The stable could have also provided a means of storage for a limited range of equipment to be kept at the field by the landowner. Furthermore, given the lack of agricultural activity on the land and that the internal works that are currently being undertaken to the building do not benefit from planning consent, the caravan is not permitted to remain on the land and should therefore also be removed, to ensure that it is not inhabited as an unauthorised dwelling, which could become lawful over the passage of time, contrary to Policy MD1 of the LDP and PPW 11. Lastly, in the absence of an application to retain the stable building as an outbuilding/store, the Council cannot require by condition any biodiversity or green infrastructure enhancements, contrary to Policy MD9 (Promoting Biodiversity) of the LDP and guidance contained within PPW.
38. In view of the issues identified in the paragraphs above, it is considered expedient to pursue action on the basis that the timber outbuilding/store, storage container structure and caravan currently have no planning control and fail to accord with Policies MD1 and MD9 of the Adopted LDP, as well as guidance contained within Planning Policy Wales Edition 12 (2024).
39. 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)

40. 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)

41. 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).
42. The Action is founded in law and would not be considered to breach any of the rights referred to in the Human Rights Act.

Equal Opportunities Implications (to include Welsh Language Issues)

43. 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. Demolish the wooden clad outbuilding, including all internal partition walls, plasterboard and insulation.
 - ii. Permanently remove the two metal storage containers and canopy structure that spans between them from the land.
 - iii. Permanently remove the caravan from the land.
 - iv. Remove all demolition materials and other items from the land, following the carrying out of steps i – 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 new building and siting of metal storage containers in

the countryside has occurred within the last 4 years and the siting of a caravan has occurred within the last 10 years.

- (2) In the absence of any planning permission which regularises the use of the building as a general agricultural store/outbuilding rather than a stable, there is the potential for the building to be used for any other purposes in breach of planning control, which would be an entirely unacceptable position with respect to a building in the open countryside and contrary to Policy MD1 (Location of New Development) of the Local Development Plan (LDP) and advice contained within Chapter 3 of Planning Policy Wales (Edition 12, 2024), in so far as the Local Planning Authority should exert strict control over new development in the open countryside. Given that unauthorised development on the land would become lawful and immune from enforcement action after a period of 4 and 10 continuous years, it is therefore considered expedient to require the current building to be removed, to allow the Council to exercise control over the use of the agricultural land going forward. In the absence of an application to retain the stable building as an outbuilding/store, the Council also cannot require by condition any biodiversity or green infrastructure enhancements, contrary to Policy MD9 (Promoting Biodiversity) of the LDP, and guidance contained within Chapter 6 of Planning Policy Wales (Edition 12, 2024). Therefore, the uncontrolled development is also considered unacceptable in this regard.
- (3) The structure comprising of two metal shipping containers and corrugated metal canopy also has no planning control and is used by the landowner as an additional storage facility for his own personal belongings, tools, and equipment, as well as for three vehicles kept at the field. It is not considered that this additional storage facility is justified in addition to the stable, to support the use and upkeep of a single field in the countryside. The stable could have also provided a means of storage for a limited range of equipment to be kept at the field and therefore it is considered that the containers and canopy structure are not justified and should be removed from the land to secure compliance with Policy MD1 of the LDP and advice contained within Chapter 3 of Planning Policy Wales (Edition 12, 2024).
- (4) In terms of the caravan, given the sporadic nature and low intensity of agricultural activity on the land, save for use of the field for leisure purposes by the owner, and that the internal works currently being undertaken to the outbuilding do not benefit from planning consent, the caravan is not permitted to remain on the land as a temporary moveable structure. The caravan should therefore be removed from the land, to ensure that it is not inhabited for residential purposes, which could become lawful after 10 years of continuous occupation, after which point the land beneath the caravan would benefit from a lawful residential use. Therefore, given that the outbuilding, containers, and caravan sited on the land are all currently unauthorised, the development is deemed contrary to Policies MD1 and MD9 of the Adopted LDP, as well as guidance contained within Chapter 3 of Planning Policy Wales (Edition 12, 2024).

- (5) 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/2022/0245/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 : **22 FEBRUARY 2024**

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.

2020/00620/FUL Received on 12 June 2020

APPLICANT: Mr David Williams Brigam Farm, Llanharry, Pontyclun, CF72 9JX

AGENT: Nigel Box Unit 12C, Newent Business Park, Newent, GL18 1DZ

Brigam Farm, Llanharry, Pontyclun

Erection of round storage tank for the temporary storage of liquid fertiliser. 26m diameter x 3m high.

REASON FOR COMMITTEE DETERMINATION

This application is reported to Planning Committee under the Council's approved scheme of delegation because the report contains a dual recommendation including planning enforcement action in the form of a Planning Enforcement Notice, which is outside the scheme of delegated powers.

EXECUTIVE SUMMARY

Retrospective planning permission is sought for the retention of a tank for the storage of fertiliser (anaerobic digestate). The application relates to Brigam Farm, which is located to the south of the M4 and outside of the settlement boundary.

The site is outside the Upper and Lower Thaw Special Landscape Area, which starts to the south, on the other side of the road from the site.

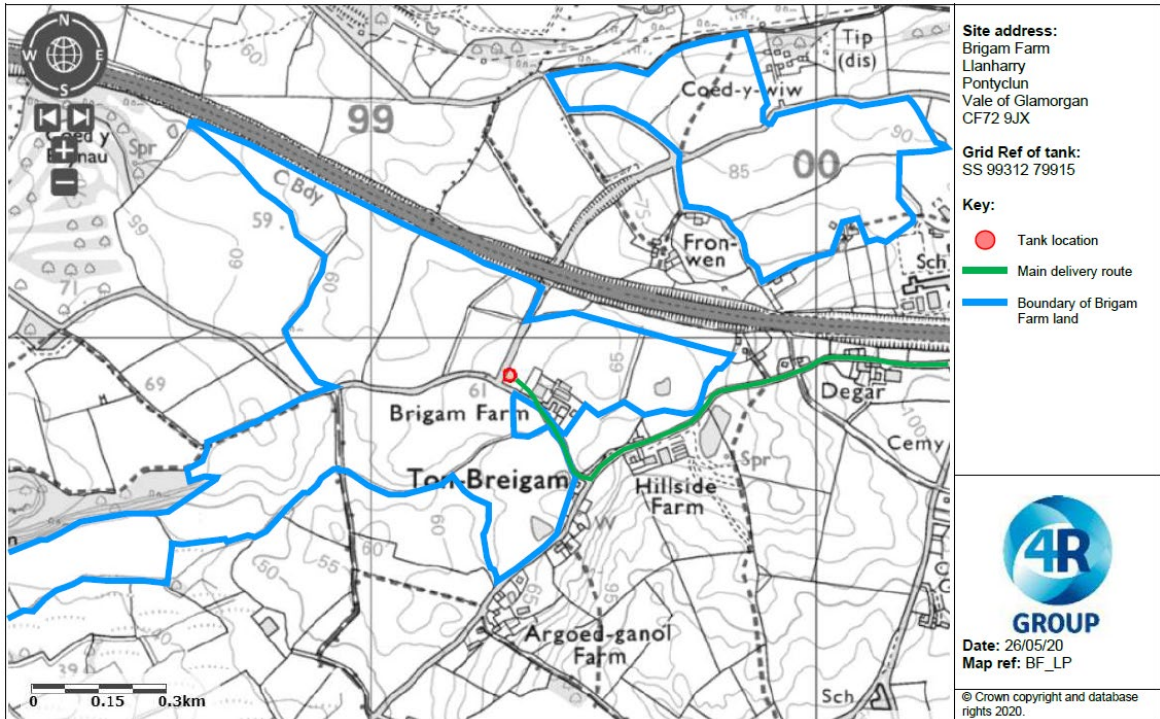
Whilst the storage tank is acceptable in respect of its visual impacts and highway impacts, insufficient information, by virtue of the lack of technical specifications and lack of secondary containment, has been provided to demonstrate that the proposal does not pose an unacceptable pollution risk to the natural environment.

It is therefore recommended that the planning application be REFUSED and that PLANNING ENFORCEMENT ACTION BE AUTHORISED in order that a planning enforcement notice may be issued to remedy the breach of planning control that is considered to have an unacceptably negative impact on the environment. In addition, in the event of non-compliance with the enforcement notice, authorisation is also sought to take such legal action that may be required.

SITE AND CONTEXT

The site is at the corner of a hardstanding area being used as part of Brigam Farm, south of the M4. The site is located adjacent to the existing farmyard and buildings in the east. The site itself sits at the junction of two unnamed country lanes and there are hedges on the boundary between the hardstanding and these two lanes.

Location Plans:



The site is outside of the settlement boundary and as such is located within the countryside as set out in the adopted Local Development Plan.

The site is located within an area safeguarded for limestone resources and there is a slight encroachment on to an area at risk of surface water flooding, with the risk defined as being “less”. The site is located within an area of good to moderate quality agricultural land (class 3a).

The site is outside the Upper and Lower Thaw Special Landscape Area, which starts to the south, on the opposite side of the road from the site.

DESCRIPTION OF DEVELOPMENT

Retrospective planning permission is sought for an existing tank for the storage of fertiliser (anaerobic digestate). The tank is a circular shape with a diameter of 26 metres and a height of 3 metres. It is constructed from steel mesh with a plastic liner and “floating cover” and can hold up to 1246 cubic metres of liquid. The tank is filled and emptied by tankers via a pipe connection.

Tank Details:

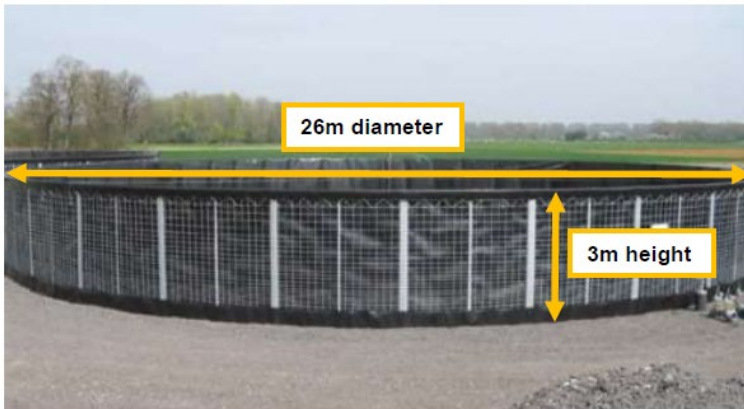


Fig 1. Image showing the full width of the storage tank and the steel mesh with HDPE liner walls.

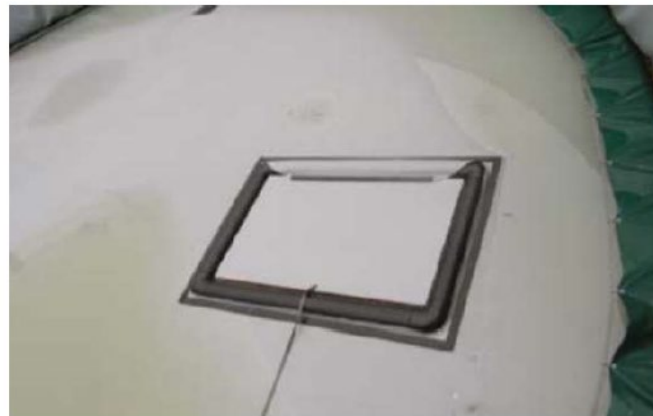


Fig 2. Image showing the floating cover with mixing hatch.

Site Photos:





A Design and Access Statement has been submitted with the application. This sets out that the tank has no permanent foundations and sits on a base of sand topped with tiles and is designed to be mobile. It also suggests that in order to fill the tank, 40 tanker deliveries would be required, but the typical frequency would be two loads a day when required.

It states that the cover prevents rainwater entering the tank and eliminates odour emissions.

In terms of safety, the DAS states that:

- The filling and emptying pipe has a heavy duty shut off tap and then 2 x shut off valves. When not attended the shut off valves are locked via a padlock and the shut off tap lever removed for additional safety;
- When product is stored within the tank a weekly inspection regime is in place to check the tank to ensure all control measures are in place;
- Delivery tankers have spill kits with them and a localised emergency shut off valve should a tanker pipe split during transfer;
- In the unlikely event that a leak was detected from the tank itself, it would be possible to implement three measures at short notice. Firstly, a repair would be made if suitable. Secondly, the fertiliser could be extracted from the tank and applied to the farmland (dependent upon crop requirements and timings). Thirdly, the digestate provider would deploy its tanker and/or third party tankers to extract the fertiliser and transport it to another site

PLANNING HISTORY

None relevant.

CONSULTATIONS

Rhondda Cynon Taf County Borough Council were consulted on 23rd July 2020. They responded on 19th August 2020 advising that their Council's Transportation Section has advised that although the development is located within the Vale of Glamorgan the proposed route for deliveries of liquid fertiliser will likely be through the RCT highway network. Nonetheless the applicant's submission demonstrates that the erection of the storage tank will reduce the intensity of HGV movements in general and therefore no concerns are raised in this regard. In respect of the visual impact of the tank it is noted that this would be sited adjacent to a cluster of existing agricultural buildings and south of the M4 embankment. In this setting it is considered that the appearance and scale of the tank would be neither appear incongruous or be positioned such that it would have an unacceptable impact on the

amenity of third parties. Consequently Rhondda Cynon Taf has no objections to the development as proposed.

Councils Highways Development Team were consulted on 3rd July 2020. They responded on 11th August 2020 advising that they have concerns over the location of the storage tank, as it can hold up to 1150m³ of liquid digestate adjacent to the highway. Although precautionary measures have been explained within the design and access statement in the event of leaking, they feel those measures would not guarantee any spill would not affect the adjacent adopted highway. In addition, could it be confirmed that the digestate storage facility is only for Brigam Farm usage and not for other business purposes. This needs to be looked into as highway maintenance could be affected because of additional traffic movements.

Following the submission of further information, responded on 24th September 2020, advising that further to reviewing this and considering the submitted information, no objection is raised in relation to the development provided that the precautionary measures are in place as stated by the applicant.

Shared Regulatory Services (Pollution) were consulted on 22 June 2020 who commented to state that a similar development has been the subject of numerous complaints due to the lack of a cover and as such, the contents of the tank were not secured. SRS note the reference to a cover for the tank within the Design and Access Statement and as such, provided the type of construction used is proven and that the cover as stated will prevent rainwater entering the tank and eliminate odour emissions, they had no objection. SRS also stated that it is essential that the applicant uses best practice in the transfer and spreading of the digestate so to keep odour and run-off to a minimum.

Shared Regulatory Services (Contaminated Land, Air and Water Quality) were consulted on 3rd July 2020 and no comments have been received to date.

Natural Resources Wales were consulted on the 23 November 2020 and they responded on 23 December 2020 to raise concerns on the application. In summary, they requested the following additional information:

- Requirement: Pollution Prevention – A written technical specification to be provided on how the tank will meet the standards in Schedule 2 of The Water Resources (Control of Pollution) (Silage and Slurry) (Wales) Regulations 2010.
- Requirement: Pollution prevention – Secondary containment to reduce risks posed to the water environment.

Further to the above comments, further details, by way of a document referring to the tank's compliance with Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (Wales) Regulations 2010 was received. As a result, Natural Resources Wales were re-consulted on the additional information.

Natural Resources Wales responded on 26 February 2021 to acknowledge the submission of additional information, however, they continued to raise concerns on the proposals. In summary, they concluded that *“the information submitted does not demonstrate how the site will be constructed to prevent pollution to the wider environment and compliance of the site with The Water Resources (Control of Pollution) (Silage and Slurry) (Wales) Regulations 2010 (as amended). The Applicant and their Agents are advised to refer to CIRIA guidance C736 Containment Systems for the Prevention of Pollution. This document provides advice*

on bunds. The bund must be built in accordance with the performance criteria detailed in this document. We advise an engineer's report is provided which confirms the bund has enough capacity to contain any leaked fertiliser, and that the bund has enough structural integrity to contain it. No such information has been presented. Therefore, we have significant concerns with respect to the pollution risk the storage tank poses in the event of leakage". NRW requested the requirements from their initial letter on 23 December 2020.

Natural Resources Wales were contacted by the Case Officer on 4 April 2023 querying whether the legislation previously referred to was still of relevance in the determination of this case. A response was received on 4 May 2023 providing an update on the legislation and stating that the fundamental aspects of the Water Resources (Control of Pollution) (Silage and Slurry) (Wales) Regulations 2010 still apply under the newer Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 Guidance for Farmers and Land Managers and therefore the comments that NRW has made previously still apply. They also commented to state that as of the 1 January 2023, risk maps are required as part of the evidence used to support a particular submission.

NRW stated that it was unclear from the application if the storage was contingency storage or storage pending definite use. NRW were of the opinion that the storage was a permanent store for digestate and as such, requires a permit to store waste. NRW also requested further information in addition to that previously requested.

Cowbridge Ward Members were consulted on 3rd July 2020 and no comments have been received to date.

Penllyn Community Council were consulted on 3rd July 2020 and no comments have been received to date.

REPRESENTATIONS

The neighbouring properties were consulted on 23rd June 2020 and a site notice was also displayed on 21st July 2020.

One query was received asking why a letter had been sent informing neighbours of the application when the tank had already been erected. No further representations have been received.

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 SP9 – Minerals

POLICY SP10 – Built and Natural Environment

Managing Growth Policies:

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 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:

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 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 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:

National planning policy in the form of Planning Policy Wales (Edition 12, 2024) (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
- Placemaking in Rural Areas
- The Best and Most Versatile Agricultural Land
- Development in the Countryside (including new housing)

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 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 23 – Economic Development (2014)

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:

- Biodiversity and Development (2018)
- Minerals Safeguarding (2018)
- Trees, Woodlands, Hedgerows and 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

As the tank is for an agricultural purpose on an established farm, the principle of this type of structure within the yard is considered to generally accord with Policy MD1 (Location of New Development) of the Local Development Plan. The key issues are considered to be the visual impact of the tank and its impact on pollution risk and highway safety, and whether it accords with Policies MD2 (Design of New Development) and MD7 (Environmental Protection) of the Local Development Plan.

Design and Visual impact

In respect of visual impact, although the tank is large, and is located close to the highway it is viewed in the context of the existing farmyard and mainly modern agricultural buildings and structures within it. However, it is noted that the boundary hedge immediately adjacent to the tank is in poor condition, creating a gap in the hedge which makes the side of the tank more visible at this point.

Gap in Hedge:



The applicant's agent has advised that the gap in the hedge is due to an old unused gateway and has agreed that a new hedge will be planted in the gap. Should the application be approved, a condition is recommended that the planting should be carried out in accordance with details to be submitted.

It is considered that subject to the provision of the above planting, the visual impact of the tank would be acceptable and would not be out of keeping with the agrarian character of the site and it is not considered to have a significant impact on the adjacent Special Landscape Area.

Highway safety

In respect of highway safety, the Council's Highways Development Team originally raised concerns that the measures explained within the Design and Access Statement would not guarantee that any spill would not affect the adjacent adopted highway.

The applicant's agent has responded advising that the bund will be heightened to 1m x 1m around the areas of the tank adjacent to the road and those areas not needed for direct access, and that the access points are reachable from the yard, which is sloped away from the road, so in the event any liquid did escape it would flow away from the road. He has also advised that this earth bund will be planted with a wildflower and seed mix to further strengthen it and to reduce its visual impact.

Conditions would be required for the safety measures set out in the Design and Access Statement to be implemented and for the implementation of the additional measures set out by the agent above. The applicant's agent has also confirmed that the digestate stored at Brigam Farm will be for the sole use of Brigam Farm and will not to be sold on to others. This will limit the number of large vehicle movements associated with this tank and therefore a condition would also be required for this restriction.

Subject to the above measures and conditions, it is considered that the proposal is acceptable in terms of highway safety.

Environmental protection

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 either:

1. *Pollution of land, surface water, ground water and the air;*
2. *Land contamination;*
3. *Hazardous substances;*
4. *Noise, vibration, odour nuisance and light pollution;*
8. *Any other identified risk to public health and safety.*

The policy continues to state that where an impact is identified, "*the Council will require applicants to demonstrate that appropriate measures can be taken to minimise the impact identified to an acceptable level.*"

In addition to the above, policy SP1 (Delivering the Strategy) states that the LDP strategy will seek to improve the living and working environment, promote enjoyment of the countryside and coast and manage important environmental assets. Criterion 6 states that this will be achieved by *“Protecting and enhancing the built, natural and coastal environment”*.

As aforementioned, Natural Resources Wales (NRW) have requested additional information. Firstly, technical specifications are required to ensure that the proposed storage tank meets the construction standards set out in The Water Resources (Control of Pollution) (Silage and Slurry and Agriculture Fuel Oil) (Wales) Regulations 2010. Appendix H of the Quality Protocol for PAS110 digestate (attached), states that quality digestate containing animal manures must be stored in facilities that meet these regulations. Such information is required to ensure that the proposal does not pose an unacceptable pollution risk.

Secondly, NRW stated that there is an elevated pollution risk from the proposed storage tank and as such, secondary containment is required. NRW also note that no ground investigation data for the proposed storage tank location have been submitted in support of the application and based on their records, they consider the location is sensitive in terms of controlled waters (ground and surface waters). The location is underlain by a Secondary Aquifer which is in turn underlain by a Principal Aquifer and is approximately 130 metres upgradient from a watercourse that flows into the River Thaw. Therefore, given this setting and lack of information on the ground conditions, NRW have concerns that a failure of the tank could result in significant impacts to the water environment. Therefore, there is a requirement that secondary containment measures should be proposed to reduce the risks posed.

Following the submission of additional information by the agent, NRW commented to state that they still had significant concerns and as such, their previous request for information (outlined above) was still valid. NRW state that there continues to be insufficient detail to demonstrate that the proposed storage tank meets the construction standards set out in the aforementioned regulations and that there are still concerns on the significant impact a failure to the tank would have on the water environment.

Natural Resources Wales, in their response on 26 February 2021, made reference to a number of points raised within the additional documents provided. For clarity and in order to accurately outline the concerns and points raised by both parties, a summary of these are included below.

The document titled ‘SSAFO Regs’ submitted as part of the additional information states that *“it is important for us to point out that the storage tanks are not being used or envisaged to be used to store a Silage, Slurry or Agricultural Fuel Oil. The tanks will be used to store a BSI PAS110 product. Therefore, it is reasonable to suggest that the tanks do not come under the SSAFO regs.”* An email from the agent also states *“..a steel tower used for the storage of farm slurry falls within the above mentioned regulations and requires no secondary containment. Therefore, how can a slurry tower require no secondary containment and yet the tank used to store BSI PAS110 product be deemed to require secondary containment”*

NRW’s response on the above points are that the:

“..submitted information does not address the specific environmental conditions that exist at the site and why these specific conditions merit the need for Secondary Containment. In addition, the physical properties of Silage, Slurry and Digestate may differ and it is possible that digestate possesses a lower viscosity compared to silage and slurry. Under the circumstance of a catastrophic tank failure, it is possible therefore that digestate may result in a greater spatial extent of impact to the environment simply based on possessing a lower viscosity. Assuming this adheres to the Precautionary Principle that is a fundamental principle in Environmental Law. Given this setting and lack of information on the ground conditions, we have concerns that a failure of the tank could result in significant impacts to the water environment. Therefore, secondary containment measures should be proposed to reduce the risks posed.”

NRW have made reference to The CIRIA C736 – *Containment Systems for the Prevention of Pollution – Secondary, Tertiary and other Measures for Industrial and Commercial Premises* – Chapter 8 presents information on secondary containment measures using earth bunds and earth floors. In addition to CIRIA C736 they make reference to note *PPC Technical Guidance Note 38, Anaerobic Digestion, January 2015, produced by the Scottish Environment Protection Agency (SEPA)* which they consider as a relevant guide for best available techniques. This guidance, in summary, states that all tanks containing liquids whose spillage could be harmful to the environment to be bunded. This document includes digestate storage within the breakdown and states that it is insufficient to be reliant on double skinned tanks as the sole containment.

The submitted documents state that there have been other applications in South Wales with no requirement for secondary containment. However, each application is considered on its own merit and the particular environmental situational circumstances for each application will vary. NRW also note that *“SEPA Note 38 requires Secondary Containment irrespective of the environmental factors present at a particular site. This is considered to be BAT and is fully protective of the environment for the life of the tank.”*

Given that some time had passed since the comments raised by NRW, the Case Officer contacted them to query as to whether the policies / legislation referred to in their previous comments had been revoked. NRW responded to state that *“fundamental aspects of the Water Resources (Control of Pollution) (Silage and Slurry) (Wales) Regulations 2010 still apply under the newer Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 Guidance for Farmers and Land Managers and therefore the comments that NRW has made previously still apply.”* They also stated that as of the 1 January 2023, risk maps are required as part of the evidence used to support a particular submission *“to identify particular features/factors that may result in a particular site potentially posing a greater risk to the environment; for example as a result of a tank/retaining structure failure.”*

Taking the above into consideration, whilst the provision of permits and compliance with other legislation referenced by NRW are matters which fall outside planning legislation, the concerns raised by NRW in respect of the potential for unacceptable pollution risk, are considered material planning considerations.

The application has not been supported by technical information to demonstrate that the tank would not be detrimental to the environment and as such, it is considered that the proposal fails to comply with policies SP1 (Delivering the Strategy, criterion 6) of the adopted Local Development Plan.

In particular, the proposal would be contrary to policy MD7 (Environmental Protection), which 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 amongst other things, pollution of land, surface water, ground water and the air (criterion 1), land contamination (criterion 2) and any other identified risk to public health and safety (criterion 3) of the adopted Local Development Plan.

Other Issues

Although this is class 3a agricultural land, it appears that the site was previously being used as part of an existing hardstanding area for the farm. Therefore, there is not considered to be a significant loss of agricultural land.

The proposed development is not considered to impact on the availability of mineral resources.

ENFORCEMENT ACTION

In view of the issues identified in the paragraphs above, it is considered expedient to pursue action in the form of a Section 172 Enforcement Notice, relating to the operational development which has been undertaken at the site. Therefore, the service of an enforcement notice is recommended to remedy the breach of planning control at the site by removing the storage tank and any associated structures.

RESOURCE IMPLICATIONS (FINANCIAL AND EMPLOYMENT)

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)

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

EQUAL OPPORTUNITIES IMPLICATIONS (TO INCLUDE WELSH LANGUAGE ISSUES)

None.

RECOMMENDATION

REFUSE AND AUTHORISE ENFORCEMENT ACTION

(1) Planning permission be refused for the following reason:

Insufficient information, by virtue of the lack of technical specifications and lack of secondary containment, has been provided to demonstrate that the proposal does not pose an unacceptable pollution risk to the natural environment. Accordingly the application fails to comply with the requirements of Policies SP1 (Delivering the Strategy, criterion 6) and MD7 (Environmental Protection, criterion 1, 2 and 8) of the Vale of Glamorgan Local Development Plan (Adopted 2017).

(2) That the Head of Legal Services be authorised to serve an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended) to require:

(i) The removal of the storage tank and any associated structures.

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

REASONS FOR ISSUING ENFORCEMENT NOTICE

1. It appears to the Council that the above breach of planning control constituting operational development has occurred within the last four years.
2. Insufficient information, by virtue of the lack of technical specifications and lack of secondary containment, has been provided to demonstrate that the proposal does not pose an unacceptable pollution risk to the natural environment. Accordingly the application fails to comply with the requirements of Policies SP1 (Delivering the Strategy, criterion 6) and MD7 (Environmental Protection, criterion 1, 2 and 8) of the Vale of Glamorgan Local Development Plan (Adopted 2017).
3. 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 decision to refuse 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 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

2020/01170/OUT Received on 14 October 2020

APPLICANT: Welsh Government Land Division , Permanent Secretary's Group , Cathays Park, Cardiff, CF10 3NQ

AGENT: Ms Catherine Blyth Unit 9, Oak Tree Court, Cardiff Gate Business Park, Cardiff, CF23 8RS

Land at Upper Cosmeston Farm, Lavernock Road, Penarth

Outline application for residential development, a primary school, community space and public open space with all matters reserved other than access

REASON FOR COMMITTEE DETERMINATION

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

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

EXECUTIVE SUMMARY

The application has been submitted in outline for residential development (for up to 576 dwellings), a primary school, community space and public open space with all matters reserved other than access. The submitted details indicate that the proposals would provide 50% affordable housing within the development, albeit given this would exceed adopted policy requirements, only 40% affordable housing could be required through any legal agreement.

The site comprises of approximately 25 ha of land at the southern edge of Cosmeston. The majority of the site has until recently been in agricultural/equestrian use and comprises seven field parcels. The site includes a section of disused railway line, part of the now dormant Lavernock Quarry, a former landfill site known as 'Cosmeston No.1 Old Tip', and a number of access tracks and pockets and corridors of woodland and vegetation. The disused railway line running centrally through the site is also identified as a Proposed Cycle Route for walking under Policy MG16 of the LDP.

The land has been allocated within the Local Development Plan for 576 houses as identified within Policy MG2 – Housing Allocation. In addition, 1.0 hectare of the site is allocated to provide a new primary and nursery school; 1.0 hectare for designated public open space and an additional 0.1 – 0.2 hectares for the provision of a new community facility, in accordance with Policies MG6, MG28 and MG7. In addition to the provision of these elements, on the basis of 576 dwellings, the proposals would also provide a contribution of £1,324,800 towards sustainable transport improvements; an education contribution of £6,476,088; 1% project budget towards public art and a contribution of £59,150 towards cliff monitoring of the coastline adjacent to the site. The applicant has agreed to these contributions.

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 principal issues for consideration with the application are the principle of the development; density of development; visual and landscape impacts; impact upon the historic environment; design and layout; highways issues; impact upon amenity of neighbouring residential properties; amenity of future occupiers of the site; drainage and flood risk; land contamination; ecology; agricultural land quality and planning obligations.

Welsh Government have advised that they may wish to 'call in' the planning application. As such they advise that as per Article 18 of the Town and Country Planning (Development Management Procedure (Wales) Order 2012, the Council should not grant planning permission for application 2020/01170/OUT or any development of the same kind which is the subject of the application, without the prior authorisation of the Welsh Ministers.

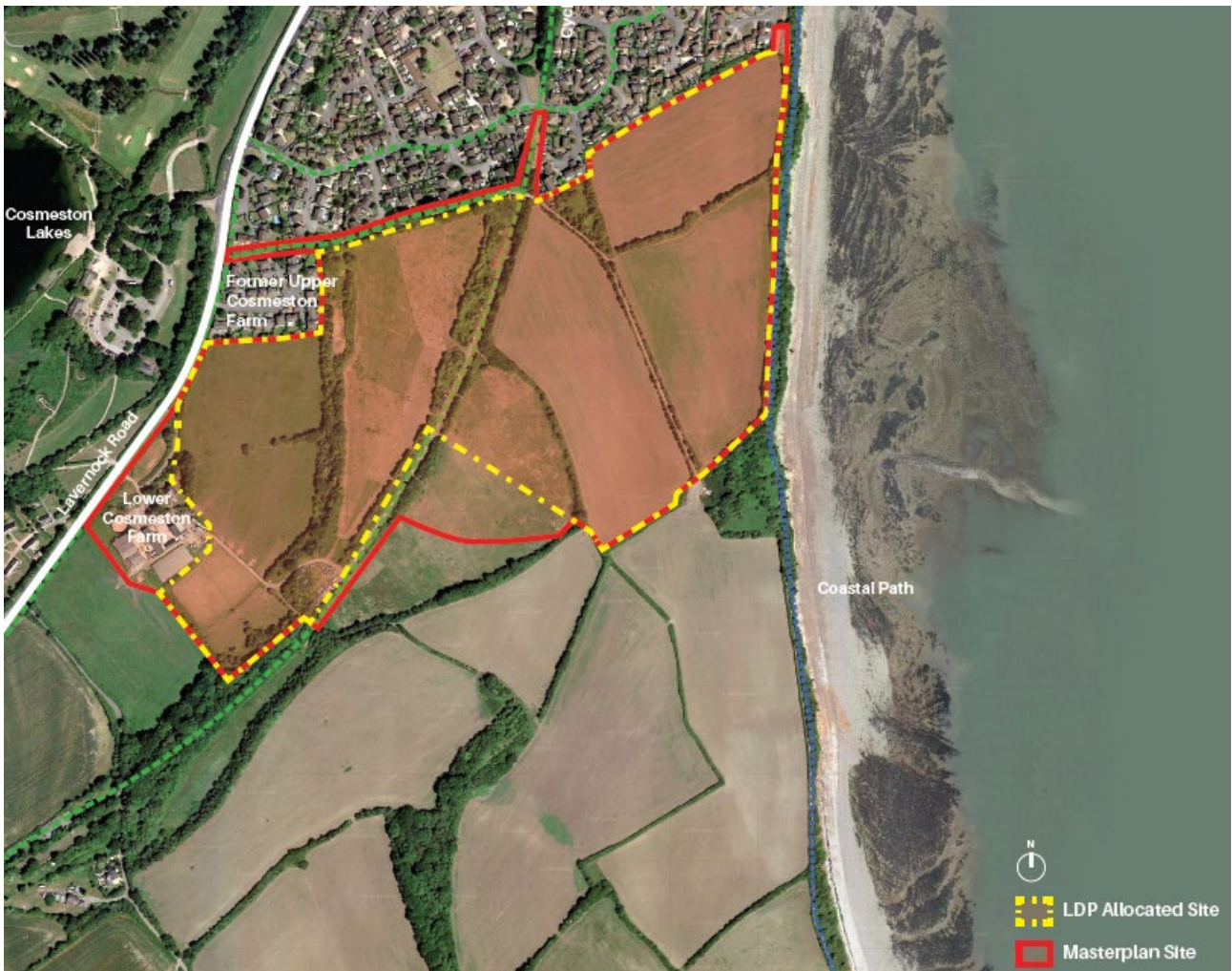
Members should note that the recommendation is to approve planning permission subject to the applicant first entering into a Section 106 agreement and subject to the conditions set out in the report. Should members agree and resolve to grant planning permission a planning permission could only be issued following confirmation from the Welsh Ministers that they do wish to call the application in.

SITE AND CONTEXT

The site comprises of approximately 25 ha of land at the southern edge of Cosmeston. The majority of the site has until recently been in agricultural/equestrian use and comprises seven field parcels. The site includes a section of disused railway line, part of the now dormant Lavernock Quarry, a former landfill site known as 'Cosmeston No.1 Old Tip', and a number of access tracks and pockets and corridors of woodland and vegetation. The disused railway line running centrally through the site is also identified as a Proposed Cycle Route for walking under Policy MG16 of the LDP.

The land has been allocated within the Local Development Plan for 576 houses as identified within Policy MG2 – Housing Allocation. In addition, 1.0 hectare of the site is allocated to provide a new primary and nursery school; 1.0 hectare for designated public open space and an additional 0.1 – 0.2 hectares for the provision of a new community facility, in accordance with Policies MG6, MG28 and MG7.

The application site includes land outside of the allocated site for residential development inclusive of Upper Cosmeston Farmhouse and associated buildings. This includes land designated within the South Penarth to Sully Green Wedge and land designated as a mineral safeguarding zone for sand and gravel and limestone (including dolomite). Since the submission of the application the original house at Lower Cosmeston Farm has been Grade II listed by Cadw. The location of the site, the extent of allocation and red line area is shown on the plan below:



To the east of the site is the Severn River Estuary, inclusive of the Penarth Coast SSSI, Severn Estuary Ramsar Site, Special Area of Conservation, Special Protection Area and Marine Character Area.

DESCRIPTION OF DEVELOPMENT

The application has been submitted in outline for residential development (for up to 576 dwellings), a primary school, community space and public open space with all matters reserved other than access. The application, as amended, is accompanied by an indicative master plan, as shown below:



'Layout' is a reserved matter, however, the plan above indicates a way that the site could potentially be developed, and is supported by a robust set of design codes detailing design principles to underpin any reserved matters submissions including the commitment to net zero development, provision of site wide design strategies, inclusive of nature corridors, active frontage, key spaces and road typologies. This is further amplified in more detail in consideration of more distinct character areas across the site, with 4 distinct character areas identified. The design code then amplifies this further with details of mandatory and discretionary elements for each element with a view to engender distinct and legible areas within the site.

As amended the proposals include principal areas of open space centrally adjacent to a cycleway running along the disused railway line and to the eastern coastal edge that would also include scope for the redirection of the Wales Coastal Path through this element. The listed building would be retained to the south west of the site to provide a community facility whilst a one form English Medium primary school would be proposed to the south-east of the retained listed building.

The application documents detail that 50% of the dwellings will be affordable.

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.

PLANNING HISTORY

1974/00869/OUT, Address: Land at Lower Penarth, (Former Cement Works Site) Now Lavernock Park, Proposal: Outline Application for Residential Development, Decision: Approved

1976/00754/FUL, Address: Land at Lower Penarth, Proposal: Residential Development of Detached Dwellings, Decision: Approved

1976/00933/REG4, Address: Os Parcel 2800 and Part OS Parcel 1400, Lavernock, Proposal: Domestic Refuse Disposal, Decision: Approved

1978/01385/OUT, Address: Former Penarth Cement Works and part of OS Parcel 4649 (Now Lavernock Park), Proposal: Residential Development, Decision:

1980/01247/RES, Address: Lavernock Park, Lavernock Road, Penarth, Proposal: Erection of Private Residential Units together with their garages, associated roads and sewers, Decision: Approved

1981/00618/OUT, Address: Lavernock Park, Lavernock Road, Penarth, Proposal: Renewal of outline planning permission for residential development, Decision: Approved

1981/01651/FUL, Address: Land off Whitcliffe Drive, Penarth, Proposal: Substitution of house types and amended, Decision: Approved;

1981/02112/RES, Address: Lavernock Park, Lavernock Road, Penarth, Proposal: Erection of private residential units together with their garages, roads and associated sewers, Decision: Approved

1983/00332/FUL, Address: Off Whitcliffe Drive, Lower Penarth, Proposal: Substitution of house types and amended details, plot 15 - 23, Decision: Approved

1993/00277/FUL, Address: Lower Cosmeston Farm, Lavernock Road, Penarth, Proposal: Proposed taking down and rebuilding of front and side gable walls using facing brickwork in lieu of stonework up to first floor level and also to high level gable, Decision: Approved, Case Officer: YL, Decision Date: 1993-06-04 00:00:00+01;

1995/00424/TPO, Address: Lower Cosmeston Farm, Lavernock Road, Penarth, Proposal: Felling dead, dying and diseased trees adjacent to the highways and replanting of more windfirm broadleaved species, Decision: Approved

2002/01655/FUL, Address: Lower Cosmeston Farm, Lavernock Road, Penarth, Proposal: Retention of agricultural buildings converted to stables, Decision: Approved

2005/01804/FUL, Address: Lower Cosmeston Farm, Lavernock Road, Penarth, Proposal: Retention of manege and change of use of slurry tank to horse walker, Decision: Approved

2013/00582/LAW, Address: Archer Place/Sully Terrace, Penarth, Proposal: Resurfacing of sections of existing walking and cycle path on the route of disused railway line and associated improvements, Decision: Approved

2018/01431/SC1, Address: Land at Upper Cosmeston Farm, Lavernock, Proposal: Request for screening opinion, Decision: Environmental Impact Assessment (Screening) - Required

2018/01432/SC2, Address: Land at Upper Cosmeston Farm, Lavernock, Proposal: Request for scoping opinion, Decision: EIA (Scoping) - Further info required

CONSULTATIONS

Penarth Town Council were consulted and initially provided comment with regard to securing affordable housing and design code as part of any consent; better integration of coastal path; concerns over increase in traffic and modal shift. In summary they conclude 'no objection subject to... a planning agreement including the Design Code should be a part of this consent.'

With regard to the revised proposals, further comments are provided noting that they are 'happy to endorse the principle of development' and welcome refinement to the Masterplan and Design Code/Parameter Plan. They however have some concern with regard to some elements of the more imaginative elements be noted as discretionary and the level of affordable housing across the site. In conclusion, they recommend that 'the application should be approved' and reconfirm the requirement for a planning agreement as above.

Sully Community Council responded noting that they fully support the technical objections lodged by others with regard to traffic; flooding on Lavernock Road; loss of agricultural land; loss of green space; impact upon biodiversity; loss of architectural and archaeological legacy; threat to character of the Wales Coastal Path; coastal erosion and land contamination.

Further comments received also reiterate the points above but also raise concern over location of school, impact upon the green wedge and play space provision.

The Council's Highway Development section was consulted and initially advised that the number of access points and locations along Lavernock Road are acceptable, inclusive of the visibility along Lavernock Road and the spacing to include the required ghost right hand turning lanes. Similarly they advised that the locations of the toucan crossing and uncontrolled centre island crossing were acceptable. They did however request some amendments including widening of footways East of Lavernock Road and to Cosmeston Park to 3.5 metres; amended location of revised 30mph gateway.

Following the submission of further information, and the review of the amended Transport Assessment dated June 2022 further comments were received, that are discussed at greater length within the main body of the report below.

In summary, however, they indicated that the proposed priority junction with ghost island right hand turn lane proposed is concluded as being suitable within the Transport Assessment.

In terms of off-site works they advise that there are some concerns with regard to Lavernock Road/Westbourne Road and Lavernock Road/Dinas Road/Victoria Road junctions as a result of the development, although consider any impacts can be suitably mitigated by way of appropriate conditions; identify potential impacts on Merrie Harrier junction and indicate that contribution toward wider improvement could be sought; active travel improvements to site frontage are considered to be acceptable subject to conditions/S106 towards sustainable transport.

They also request that amended details with regard to particular elements of the indicative masterplan and request that amended details be secured by condition. Overall however they advise that 'the highway authority has no objection to the outline consent in principle subject to conditions including those relating to

- Revised masterplan and design code; reserved matters applications being accompanied by full engineering details;
- Design calculations for highways elements;
- Further investigation of mitigation measures at Lavernock Road junctions with Westbourne Road and Dinas Road/Victoria Road;
- Highway hierarchy within residential development meeting widths and geometries of adopted standards;
- Layout to allow 15m coach and 11.22m refuse lorry to manoeuvre;
- Parking should be in accordance with the Council's Parking Standards SPG for both residential and school elements of the proposals;
- Development being designed to promote walking and cycling including connection to Coastal Path and Cosmeston Lakes and school to be integrated within that;
- School to be accessed from the southern secondary junction;
- Drop off/pick up area to be provided for the primary school;
- Suitable service and delivery areas to be provided for school;
- Requirement for SUDs; developer to enter into a S278 agreement;
- TROs to be secured for movement of 30mph gateway;
- Access points to be designed with visibility splays with x distance of 4.5m for revised 30mph speed limit and in accordance with Manual for Streets;
- Toucan crossing facility to be provided and east/west cycle and pedestrian links;
- 3.5m wide illuminated shared footway/cycleway to the site frontage and footway to western side of Lavernock Road;
- Upgrade of bus stop facilities to Lavernock Road;
- Provision of a Construction Traffic Management Plan;
- On-site parking for construction workers;
- Condition surveys prior to works and after last completion of last property with associated remedial works.

The Council's Public Rights of Way Officer was consulted and notes the presence of Public Right of Way No.1 Penarth runs parallel to the boundary of the property, noting its heavily used and forms part of the All Wales Coastal Path. They request that this path be kept open and available to use for the public at all times and that there be no adverse effect to the PROW and that any legal diversion or stopping-up order must be obtained, confirmed and implemented prior to any development effecting PROW.

Following consideration of the amended proposals, the PROW officer confirmed that they were satisfied with the most recently amended layout.

The Council's Education Section were consulted with regard to the proposals who provide comments with regard to the level of capacity and level of contributions arising from the development. These comments are reflected within the planning obligations section at the end of the report and are not repeated here.

In terms of the most recent layout, the Council's Education Section raised some concern with regard to the layout shown on the illustrative masterplan, including layout of parking, proximity to listed building and potential increased cost and clarification with regard to the use of the community sports pitch.

Council's Operational Manager Highways and Engineering (Drainage) was consulted with regard to the initial proposals and noted that the site lies outside of a DAM Zone for tidal or fluvial flooding and although there are parts of the site that are at high risk of surface water flooding, the risk of surface water flooding across the majority of the site is seen to be very low. They note that the site would be subject of SAB approval and note that despite contamination, infiltration should not be discounted. Some concern as noted with regard to the position of drainage basins including to Whitcliffe Drive although note consideration of this risk would need to be demonstrated in support of the final drainage strategy, whilst phasing of SUDs would need to be considered in line with phasing of delivery of any planning approval. In terms of coastal erosion they indicated that further cliff surveys and erosion assessment should be undertaken, during construction and within 12 months of completion of the development. In terms of the buffer between the cliff and structures (30m) and critical infrastructure (10m) they indicate that this should be dynamic and allow recession of the cliff during the lifetime of development. They did however indicate that the masterplan should be dynamic/resilient to any changes in the coastline such as SUDs and highway infrastructure. They also requested that consideration be given to impact of location of drainage features upon rates of coastal erosion, and that a long-term monitoring of cliff and building locations be undertaken. Noting all of the above, they initially objected to the proposed development subject to further survey work of the cliff face.

Following the submission of further information, their comments remain unchanged with regard to SAB; they endorse contamination conditions proposed by SRS remain the same and note that the location of drainage features being informed by final drainage strategy which would form part of more detailed submissions. Whilst it is again requested that position of cliff edge and erosion rates are required these should be provided to accompany reserved matters for development adjacent to the coastline. They reiterate previous comments in terms of a 10m buffer for critical infrastructure and assessment of SUDs infrastructure with regard to cliff erosion. In conclusion they state '*we remove our objection to the approval of the proposed development*' and request conditions relating to programme of topographic surveys with specifications and timescales to be agreed; assessment of potential impact of future erosion on critical infrastructure in support of reserved matters; long-term cliff-monitoring programme and that any structures falling within 10m of the cliff edge throughout the life of the development should be removed.

Shared Regulatory Services (Air Quality) provided comments with regard to the application and note that with regard to the construction phase they recommend that a suitable construction environment management plan be attached to any consent granted with regard to dust control. In terms of the operation phase of development, they advise that 'the AQA concludes that the overall effect of the proposed development, in terms of road traffic impacts, will be 'negligible'.' They 'concur with the conclusions made by the assessment and on grounds of air quality have no objections.'

Shared Regulatory Services (Pollution Control) were consulted and provide comments with regard to exposure of the site to noise, with particularly regard to traffic noise from Lavernock Road. Having considered the noise assessment they advise, that they are satisfied with the findings of the noise assessment, noting that 'suitable mitigation should be explored and installed as deemed necessary, although it is accepted that substantial mitigation, such as whole house mechanical ventilation, will not be required. They request a construction environment management plan be attached to any consent given and also request that hours of operation at the site be controlled during construction.

Glamorgan Gwent Archaeological Trust indicate that there is an archaeological constraint, recommending that a condition requiring the applicant to submit a detailed written scheme of investigation for a programme of archaeological work to protect the archaeological resource be attached to any consent given.

They also advised that *'it is appropriate to consider the preservation of the Farm in-situ, whilst being aware of the alterations that have taken place. Indeed, as part of the pre-application process, we recommended that the structures be preserved within the proposed development.'* Follow the listing of the barn, they advise that this strengthens this position.

With regard to third party archaeological information, raised within representations, GGAT advise that they 'have also been informed of additional trial trenches that encountered a further potential feature and medieval occupation' but advise that 'our recommendation remains unchanged.'

Cadw, Ancient Monuments state 'that there are no scheduled monuments or registered historic parks and gardens that would be affected by the proposed development. We therefore have no comments to make on the proposed development.

Dwr Cymru Welsh Water were consulted with regard to the application who advise that the site is crossed by a sewer (1450mm); sewerage capacity exists within the public sewerage network (including at the Wastewater Treatment Works) although request details of a foul drainage scheme be made conditional to any consent given they are satisfied that a Hydraulic Modelling Assessment (HMA) undertaken has detailed suitable solutions to serve the development with an adequate water supply and as such request a condition restricting beneficial use of buildings on the site until such as time as suitable reinforcement works to the local water supply network have been undertaken .They note surface water should be dealt with under Sustainable Drainage Systems Approval Body (SAB). They also request an advisory note be attached with regard to connections to the public sewerage network and that some apparatus may not be shown on their records .

The Council's Ecology Officer was consulted and initially requested additional information with regard to impacts upon species and habitats; loss of hedgerow and woodland; connectivity of habitats; dark corridors identified within the development plan and with Cosmeston Lakes County Park to the east.

Following the submission of further details, including further survey work and HRA assessment by Soltys Brewster and feedback from NRW, they recommend the application for approval and conclude that:

In my opinion the HRA Screening Report has determined that the effects on the European Designated Site are minimal and can be managed through both design and the condition of a CEMP.

The status of the habitat and species surveys for this site is currently up to date for the purposes of the planning process. As time progresses then there will be a need to repeat surveys to keep within the guidelines.

They recommend that conditions relating to protection of green infrastructure including through retention through design of existing hedgerow; updated ecological surveys as appropriate through development of the site; a CEMP for each phase; long term LEMP for 10 years minimum; provision of biodiversity benefit such as wetland features, marshes, wet ditches that should retain water; nest boxes for birds on residential elements. They also advise that habitat creation could be combined with public art and green roofs that are not sedum should be considered on any community buildings such as the school.

The Council's Landscape Section was consulted and initially raised concern with the original layout with regard to the relationship of the proposals with the Wales Coastal Path and coastline; need for improvements of the coastal path that could be integrated within the development; concerns with regard to some of the visual impacts including with regard to the tallest element of the proposals within the development including from the coastal path and Cosmeston County park; size of landscape buffers integrated into the development; amended design and location of play space within the development and need for increased informal play space; loss of hedgerow as a result of the development including that fronting Lavernock Road to the west of the site and the feasibility of the crossings into Cosmeston Country Park to the west of the site.

Following the receipt of amended plans the Council's landscape officer reiterated concerns with regard to the loss of hedgerow shown within the submissions. They note however that 'some adjustment of the layout could mitigate a significant portion of this loss' although suggest this may be at the expense of some housing numbers. They note that there are 'several areas where the hedgerow lost appear to be on the fringes of the development and could be retained with further adjustment' that they note should be further explored. They note that the landscape elements of the design code could be further strengthened with regard to the mandatory requirements relating to planting within any landscaping proposals and soil resource. They also indicate that the indicative masterplan shows footpaths, roads and cycleways within root protection areas and indicate no dig construction techniques would be required in addition to further arboricultural impact assessments, arboricultural method statements and tree protection plans.

The Operational Manager for Parks and Grounds Maintenance was consulted although no comments had been received at the time of writing this report.

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

The Council's Housing Strategy (Affordable Housing) section was consulted and with regard to the most recently submitted details advise that there is an evidenced need for 1205 affordable housing units a year to meet the need in the borough. They note that the housing market area of Penarth and Llandough is identified within the Local Housing Market Assessment as being an area of highest need as evidence by figures from the Council's Homes4U waiting list, including those for the wards of Sully and Penarth & Llandough (November 2023) as detailed below:

Social Rented (Homes4U)

PENARTH	SULLY	LLANDOUGH	
1 bed	437	58	114
2 bed	232	46	55
3 bed	105	13	27
4 bed	23	4	6
5 bed	3	0	0
6 bed	1	0	1
	801	121	203

Low Cost Home Ownership (Aspire2Own)

	Penarth	Sully	Llandough
1 bed	12	4	0
2 bed	128	73	7
3 bed	81	58	4
4 bed	10	6	0
	231	141	11

In line with the SPG and based on a development of 576 dwellings, the Housing Authority would request 40% affordable housing, equalling 231 units in total. In accordance with the policy, 70% should be social rented (162), and the remaining should be intermediate, i.e., assisted home ownership. They are supportive of the intended provision of 50% affordable housing, advising that this should be social rented accommodation owing to the acute need for this form of tenure of accommodation and as such indicate provision of 58 social rented units in addition to the above.

They request therefore that a total of 220 social rented units (124no. 1 bed, 66no. 2 bed, 26no. 3 bed and 4no. 4 bed), and 69 intermediate (assisted home ownership) units (4no. 1 bed, 36no. 2 bed, 26no. 3 bed and 3no. 4 bed), based upon 576 units in total.

Sully Ward members have been consulted with regard to the application. Cllr Penrose (no longer member) initially raised concern with regard to the consultation on the application during the pandemic and concerns with regard to the impact on the highway network.

The Council's Transport and Road Safety section was consulted although these are included within the Highway Development comments.

Natural Resources Wales have provided comments throughout the application process. Their most recent comments (Received December 2022) state that whilst they have concerns with the application as submitted, they are satisfied that these concerns can be overcome by attaching conditions with regard certain plans and documents being made conditional to any planning consent granted. The list of conditions include Dormouse Conservation Strategy and details of works with any reserved matters (RM) application; details of phasing; lighting strategy (outline) and lighting plan (RM) (conditions 20 & 21 refer); Landscape and Ecology Management Plan (LEMP) and subsequent details as part of RM; Pre-commencement Species Surveys; land contamination x 3 conditions; designated site buffer zone and construction environmental management plan . Details of these comments and the respective conditions will be provided in greater detail within the body of the report.

Sports & Play Development Manager was consulted although no comments had been received at the time of writing this report.

Shared Regulatory Services (Contaminated Land, Air & Water Quality) were consulted and with regard to contamination at the site acknowledge that further investigation is required and would require contamination assessment; remediation and verification plan and a remediation verification report.

In terms of ground gas, SRS acknowledge that whilst the assessment was ongoing at the time of their comments, they note that findings 'indicate significant gassing in parts of the site and the need for ground gas protection measures across the development', and do indicate that there may be difficulties regulating allotment activities post construction. SRS indicate that further assessment is required to assess the risk associated with ground gas, including areas not previously investigated and assessment of ground gas as part of the construction process, that would in the form of a risk assessment, ground gas protection measures and verification plan and a subsequent verification report.

Noting the above, with regard to both ground gas and land contamination SRS advise that conditions should be attached to any permission given relating to ground gas protection; contaminated land measures – assessment; contaminated land – remediation & verification plan; contaminated land measures – remediation& verification; unforeseen contamination; imported soils; imported aggregates; use of site won materials in addition to informative with regard to contamination and unstable land.

Following consultation on the most recently submitted plans, SRS indicate that 'having reviewed the additional documents, comments relating to land contamination remain as per the response dated 3 November 2020.'

South Wales Police (Designing Out Crime Officer) provided comments with regard to the proposals including but not limited to recommendations with regard to residential element in relation to the site layout and surveillance; lighting; boundaries and landscaping; overlooking of parking areas and bin storage. They also provide comments with regard to the delivery of the school site including but not limited to those relating to perimeter security; CCTV; lighting; landscaping; parking areas; signage; access and bike storage

Plymouth Ward members were consulted and comments received from Councillor Ernest who requested a run-through the application.

Executive Director of Public Health was consulted although no comments had been received at the time of writing this report.

REPRESENTATIONS

The neighbouring properties were consulted on 23 October 2020 and on 21 July 2022. Site notices were also displayed in eleven locations near to the site on 11 November 2020 and 28 July 2022 and the application was also advertised in the press on 30 October 2020, 11 November 2020 and 28 July 2022. At the time of writing this report circa 375 representations had been received raising the following points:

Objection

- Departure from the adopted Local Development Plan
- Accuracy of housing calculations underpinning LDP
- Impact on highways infrastructure and congestion
- Cumulative highways impact from this development and neighbouring special educational needs school
- Air pollution including from cars
- Proximity to services for future occupiers
- Impact upon education facilities and lack of capacity
- Existing cycling route along old railway already at capacity and lacks lighting
- Loss of ability to re-open railway
- Impact upon local services such as public transport and medical facilities
- Impact upon countryside, loss of greenfield land
- Impact upon character of Penarth including from height of development
- Landmark building to high
- Density too high
- Lack of suitable parking
- Lack of community facilities
- Lack of solar panels, energy efficiency/zero carbon measures integrated into the development
- Impact upon trees and hedgerow and resultant fragmentation of habitat
- Dual public art/dormouse feature fit for purpose
- Lack of suitable pedestrian facilities in the wider area
- Impact upon archaeological resource, including findings within an independent archaeological survey
- Lavernock Road prone to flooding
- Ecological impacts of the proposals including impacts upon adjacent SSSI and SAC designations and species on site including birds and dormice
- Ecological impacts from increased use/lighting/widening of paths within railway corridor
- Lack of need for further housing
- Housing not affordable to those who need it
- Objection to associated housing on the site
- Privatisation of public asset

- Contaminated land; former use of land for refuse/cattle pyre and release of toxic chemicals
- Alternative brownfield sites should be considered
- Proximity to nature reserve
- Nuclear fallout shelter and gun battery not considered in archaeological reports
- Impact upon Green Wedge and confluence of Sully and Penarth
- Pressure on local schools
- Loss of trees/hedgerow
- Maintenance of open space areas
- Wales Coastal Path being realigned?
- Impact upon diversity and equality by removing access to coast path
- Alternative uses at the site such as woodland/solar farm should be considered
- Timing of original consultation during Covid Lockdown
- Coastal erosion and potential impact on development
- Concern over access onto Whitcliffe Drive
- Impact upon tourism
- Provision of EV charging points within development
- Design of development does not consider climate change
- Lack of self-build plots
- Council looking to absolve responsibility for contaminated land
- Lack of privacy, overbearing impact and loss of view for existing neighbouring residential occupiers and impact from increased cycle/pedestrian movements
- Impact from construction including noise, dust and disruption from vehicles
- Request for barn within site to be listed (now Grade II listed) and concerns with regard to the loss of the historic farmstead buildings
- Accumulation with school development on land to the south
- Suggestion of woodland belt along the coastal path
- Concerns over movement of existing bus stop
- Impact upon archaeological resource including that associated with Cosmeston Village
- Impact upon listed farm buildings
- Health impacts for neighbouring residents
- Could railway line be widened/lit to provide enhanced cycle facilities
- Has reintroduction of railway line been considered
- Cyclist priority at junction and upgrading of cycleways to Lavernock Road
- Impact on Severn Estuary Special Area of Conservation, Ramsar site and Marine Protection Area
- Gradients of active travel routes non-compliant
- Concern over emergency access to Whitcliffe Drive shown on masterplan
- Single form school inadequate
- Cumulative impact with school site to the south
- Land should be safeguarded for tidal barrage and potential overlap
- Impact on food security

Support

- Provision of new primary school a benefit
- Need for new housing including social housing

Two pieces of correspondence were also received from local Liberal Democrat that included a survey response initially from 153 residents in November 2020 and subsequently 154 residents in August 2022. These documents echo a number of the concerns above including pollution; loss of green space; heritage impacts; heights of building and potential conflict of interest for VOGC owing to land ownership/applicant.

A petition with circa 125 signatories was also received from 'Clifftop Residents' raising concern with regard to location of development; traffic congestion; destruction of greenfield land and wildlife; archaeology; conflict with government policy and ignorance of alternatives.

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 SP3 – Residential Requirement
POLICY SP4 – Affordable Housing Provision
POLICY SP7 – Transportation
POLICY SP9 – Minerals
POLICY SP10 – Built and Natural Environment
POLICY SP11 – Tourism and Leisure

Managing Growth Policies:

POLICY MG1 – Housing Supply in the Vale of Glamorgan
POLICY MG2 – Housing Allocations
POLICY MG4 – Affordable Housing
POLICY MG6 – Provision of Educational Facilities
POLICY MG7 – Provision of Community Facilities
POLICY MG18 – Green Wedges
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
POLICY MG24 – Dormant Mineral Sites
POLICY MG28 – Public Open Space Allocations

Managing Development Policies:

POLICY MD1 - Location of New Development

POLICY MD2 - Design of New Development
POLICY MD3 - Provision for Open Space
POLICY MD4 - Community Infrastructure and Planning Obligations
POLICY MD5 - Development within Settlement Boundaries
POLICY MD6 - Housing Densities
POLICY MD7 - Environmental Protection
POLICY MD8 - Historic Environment
POLICY MD9 - Promoting Biodiversity
POLICY MD11 - Conversion and Renovation of Rural Buildings

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 3 – Supporting Urban Growth and Regeneration – Public Sector Leadership

- The public sector must show leadership and apply placemaking principles to support growth and regeneration for the benefit of communities across Wales.

Policy 6 – Town Centre First

- Sequential approach for new commercial, retail, education, health, leisure and public service facilities.

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 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 12, 2024) (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
- Sustainable Management of Natural Resources
- Placemaking in Rural Areas
- Accessibility
- Previously Developed Land
- The Best and Most Versatile Agricultural Land
- 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

- 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:

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

- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 14 – Coastal Planning (1998)
- 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 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. The following chapters and sections are of particular relevance in the assessment of this planning application:

- Living within environmental limits
 - Support the achievement and maintenance of Good Environmental Status (GES) and Good Ecological Status (GeS).
 - Protect, conserve, restore and enhance marine biodiversity to halt and reverse its decline including supporting the development and functioning of a well-managed and ecologically coherent network of Marine Protected Areas (MPAs) and resilient populations of representative, rare and vulnerable species.
 - Maintain and enhance the resilience of marine ecosystems and the benefits they provide in order to meet the needs of present and future generations.

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:

- Affordable Housing (2022)
- Biodiversity and Development (2018)
- Design in the Landscape
- Minerals Safeguarding (2018)
- Parking Standards (2019)
- Planning Obligations (2018)
- Public Art in New Development (2018)
- 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
- Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 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.

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 be considered with this application are considered to be the following:

- The principle of the development.
- Agricultural land quality
- Density of the development.
- Visual impact of the development within the wider landscape.
- Impacts on the historic environment.
- Design and layout.
- Public Open Space and Green Infrastructure
- Land Contamination
- Air Quality
- Highways issues, including highway safety, public transport, pedestrian movements.
- Traffic and congestion issues.
- Parking
- Impact on residential amenity of existing residents.
- Amenity of the future occupiers of the site.
- Drainage and flood risk.
- Cliff Erosion
- Ecology (including Habitats Regulation Assessment)

- Trees and hedgerows.
- Dormant Mineral Site
- S106 Planning Obligations to mitigate the impact of development (to include affordable housing provision and public open space).

The principle of the development

The majority of the application site lies within the settlement boundary of Penarth and the corresponding section also lies within the Local Development Plan housing allocation (see Policy MG2(24) for up to 576 dwellings. The proposals indicate that the application would provide 50% affordable housing that would exceed the 40% requirement in this location, as detailed within Policy MG4 of the adopted development plan. It is therefore considered that the development is wholly compliant with policy in respect of that section of the site.

Noting that the proposals form part of the adopted development plan, that has been found sound through examination by an appointed Inspector, it is not necessary to revisit the need, location relative to services, alternative uses for the site or housing projections as suggested within some third party representations. Furthermore, it is noted that this site has been 'rolled forward' within the housing need for the draft replacement LDP that is currently undergoing consultation. Should planning permission for this site not be approved, it would need to be taken out of the land bank for replacement LDP and an alternative site(s) found for this number of units. Noting that the Penarth/Llandough area has one of the highest levels of affordable housing need in the Vale, this would require a further, potentially less suitable site, to be found to meet housing need, likely within this part of the Vale of Glamorgan.

As noted above, there is also land within the site which lies outside of the settlement and housing allocation boundaries. This is shown on the plan below:



The areas of the site not included within the allocation (edged yellow on the plan above) also fall within the 'South Penarth to Sully' Green Wedge as defined by Policy MG18 (6) of the LDP. Policy MG18 indicated that green wedges have been identified to prevent the coalescence of settlements to retain the openness of land, by restricting inappropriate development that prejudices its open nature, consistent with the advice within PPW. The Green Wedge Background Paper (2013) prepared in support of the application indicates that the South Penarth to Sully Green Wedge was designated to prevent urban coalescence between the settlements; development does not prejudice the open nature of the land; to protect undeveloped land from speculative development and maintain the setting of built-up areas.

They afford similar levels of protection to Green Belts, except as noted within paragraph 3.68 of PPW they '*are proposed and be subject to review as part of the LDP process.*' Paragraph 3.73 indicates that substantial weight should be afforded to harmful impact on the purposes of the green wedge designation, expanded upon by paragraph 3.75 that indicates inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the green wedge. Paragraph 3.75 of PPW provides a definition of forms of new buildings that would not be inappropriate, whilst Paragraph 3.76 details the form of re-use of buildings in a Green Belt that would not be inappropriate. In terms of the central area where encroachment would occur this is shown on the indicative masterplan as forming part of the open space serving the site. It is considered that this would meet the requirements in terms of paragraph 3.75 nothing that this would provide

outdoor recreation facilities that would maintain the openness of the green wedge. In terms of the south-western corner this would be limited to the extent of the established farmyard, where a number of the buildings would be removed whilst the recognised Grade II listed building would be re-purposed within the master plan for future use as a community, educational or commercial use. Although it is acknowledged that the proposed masterplan is indicative, the associated circulation and hardstanding to the re-used farm buildings is shown on the master plan. However, it is considered that this is balanced by the loss of built form within this area and would not be strictly prejudicial to its openness. Furthermore, it is noted that since the submission of this application, planning permission has been granted for development of the land to the south of the site for the expansion of the Ysgol y Deri site (application 2022/01113/RG3 refers). To this end, noting the proposed nature of the use of land beyond the settlement boundary/allocation within the green wedge area it is considered that the proposals would not result in unacceptable tension with green wedge policy, nor would it unacceptably impact upon the character of the countryside beyond the identified settlement boundaries.

The site has historically formed part of the wider holding of Lower Cosmeston Farm. However, it is understood that the tenant farmer has now vacated the site and as such it is considered that this does not represent a reason to delay consideration of the application.

Noting all of the above therefore, it is considered that the proposed development of the site is acceptable in principle.

Agricultural land quality.

All of the land within site has been classified as Grade 3B, 4 or 5, following soil testing. This land is not classed as Best and Most Versatile (that is grades 1, 2 and 3A) and consequently, the development would not conflict with Policy MD1 of the LDP, which states (at criterion 9) that developments should have no unacceptable impact on the best and most versatile agricultural land.

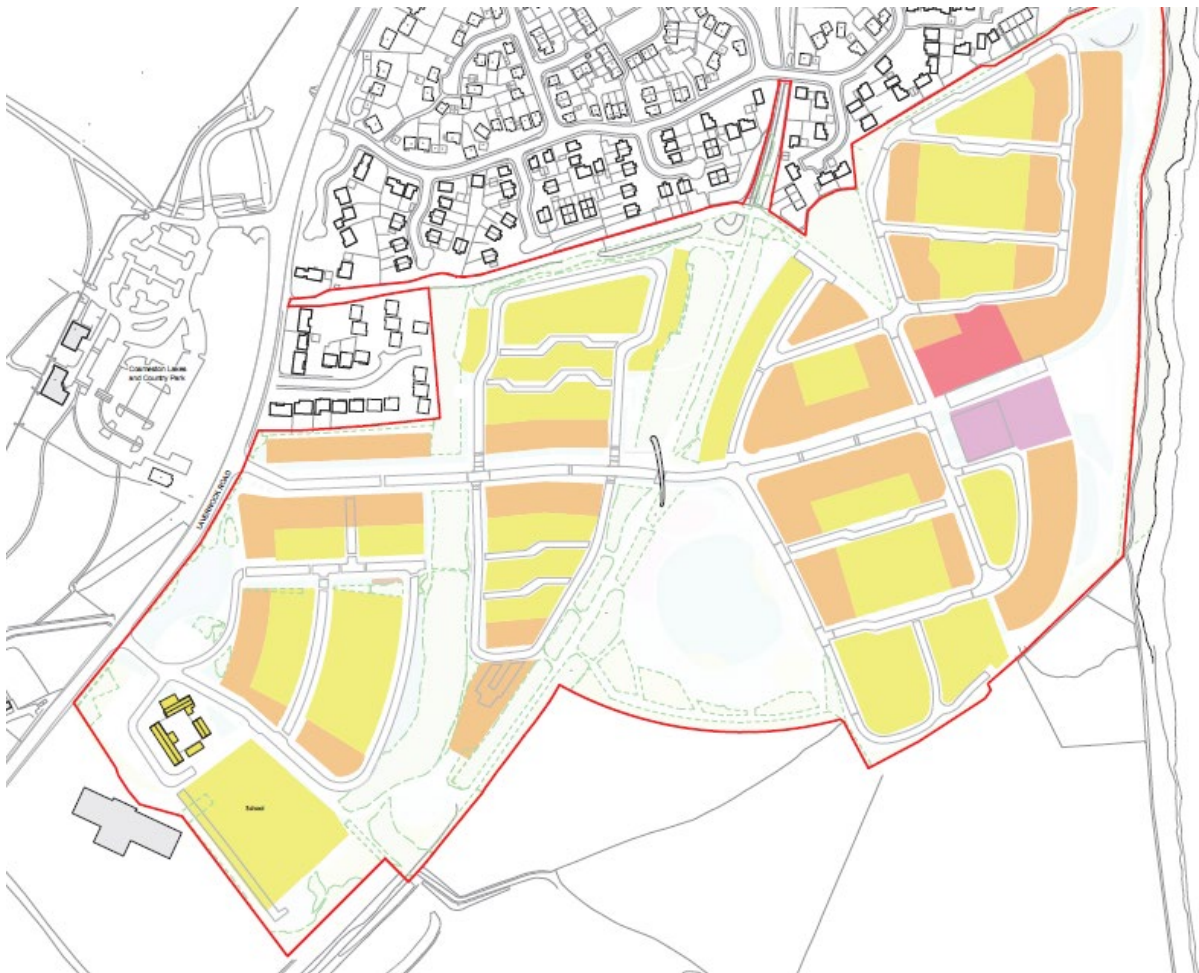
The density of the development

While the site is approximately 25 hectares in total size, the net developable area for residential development is considerably less, noting ecological and coastal constraints, land allocated for open space and educational facilities and the area aforementioned comprising the existing listed farm buildings. Based on a net developable area of approximately 18.7 hectares, the density would be approximately 31 units per hectare. Policy MD6 of the LDP requires 30 dwellings per hectare in Primary Settlements to ensure that land in sustainable locations is developed efficiently. This proposal would satisfy the requirements of this policy. The land is allocated for 576 units, and as such the extent of development is considered to comply with the provisions of the LDP.

Visual impact of the Development within the Wider Landscape

It is accepted that the proposed development would fundamentally alter the character of the land, however, this does not necessarily render the development unacceptable, particularly noting its allocation to meet an identified housing need within the Vale of Glamorgan administrative area. Rather an assessment of the visual impact is required in the context of the surrounding landscape and how the development relates to the existing built environment.

The application site lies directly to the south of the existing settlement and would directly adjoin existing, modern residential development to the north, and would therefore have a close physical and visual relationship with existing built form within the established settlement boundary. Notwithstanding this, concerns were originally raised with regard to the proposed heights of development, particularly the seven storey elements to the easternmost plateau. As such amended plans have been submitted to address these concerns including a revised parameter plan as shown below:



Predominantly, development of the site would be limited to a maximum of two to two and half storey (yellow) and up to three storey (orange). Greater vertical emphasis is shown within the development to the eastern side of the site with maximum storey heights of four storeys (red) and five storeys (purple). The application has been supported by a revised Landscape and Visual Impact Assessment (LVIA) prepared by EDP dated April 2022. This provides an appraisal of the likely visual impacts including identifying a Zone of Theoretical Visibility (ZTV) and number of suitable identified viewpoints from where the development would be visible, including the Wales Coastal Path and Cosmeston Country Park to the west. This seeks to establish the likely impacts of the proposals and concludes as follows:

Overall, and even with what are deemed to be ‘significant’ effects in EIA terms, EDP concludes that there are few highly sensitive receptors (such as the Wales Coastal Footpath, Cosmeston Lakes Country Park and Penarth Pier) or receptors of higher experience (such as those travelling past the Application Site along Lavernock Road) that would be affected significantly by the proposal in the long term. Receptors likely to experience residual impacts beyond year 15 are: the landscape character of the

Application Site itself, an unavoidable impact when converting a greenfield site to built form; existing residential properties directly adjacent to the Application Site's northern boundary; and views from localised PRoW L1/4/1 and S13/2/1. All other significant impacts identified at year 1 are anticipated to reduce successfully over time through appropriate material and design choices and the maturation of mitigation planting, being not significant by year 15.

Officers are minded to agree with this assessment, noting the lack of landscape designation and allocation of the site within the development, that the site, in landscape terms, represents a logical extension to the settlement of Penarth, that subject to consideration of design matters in detail at reserved matters stage, would not give rise to unacceptable landscape impacts.

Impacts upon the Historic Environment

The closest ancient monument to the site is approximately 1km away to the south (anti-aircraft battery west of Lavernock Point) and 1.4 km to the north-west, Cogan deserted medieval village. Given this distance, the proposed development would not adversely affect the setting of this monument. Cadw have stated that 'no scheduled monuments or registered historic parks and gardens would be affected by the proposed development'.

In terms of listed buildings, there is the Grade II listed Lower Cosmeston Farm building that is proposed to remain in situ as a result of the development, recognised for its architectural for its special architectural and historic interest as a rare surviving pre-1700 farmhouse with its form and layout largely legible. Noting that it is proposed to retain the listed building in situ within the development, no physical works are being proposed to the building at this time and any such works would be subject of further detailed consideration at reserved matters stage. The introduction of built form, including the proposed school building, would undoubtedly impact to some degree upon the surroundings of the development. However, while there would be development in the same 'visual envelope', the degree of spacing as shown on the indicative masterplan is considered sufficient enough to demonstrate that the proposed development would not unacceptably impact upon its setting, owing to the suggested maintained separation. It is however considered that while the impact on the setting of listed building is afforded not insignificant weight, any change to the setting is outweighed by the above issues relating to the identified need for this development. Any such impact would need to be fully considered at reserved matters stage with full details of design and layout to be agreed at this stage and does not therefore represent a reason to refuse permission in principle.

The next nearest listed building being the Church of St Lawrence to the south of the site, circa 800 metres to the south. Noting this separation it is considered that there would no adverse impact upon this building or its settings.

County Treasures within the Cosmeston Medieval village are located to the opposite site of Lavernock Road, that would also share the same visual envelope although noting their separation from the proposals, it is considered that the proposals would not unacceptably impact upon their setting.

The Council's archaeological advisors Glamorgan Gwent Archaeological Trust (GGAT) have considered the submitted Archaeological and Heritage Assessment, geophysical surveys and archaeological evaluations prepared. In this regard they advised that although anomalies were identified that will require further investigation, they recommend that this

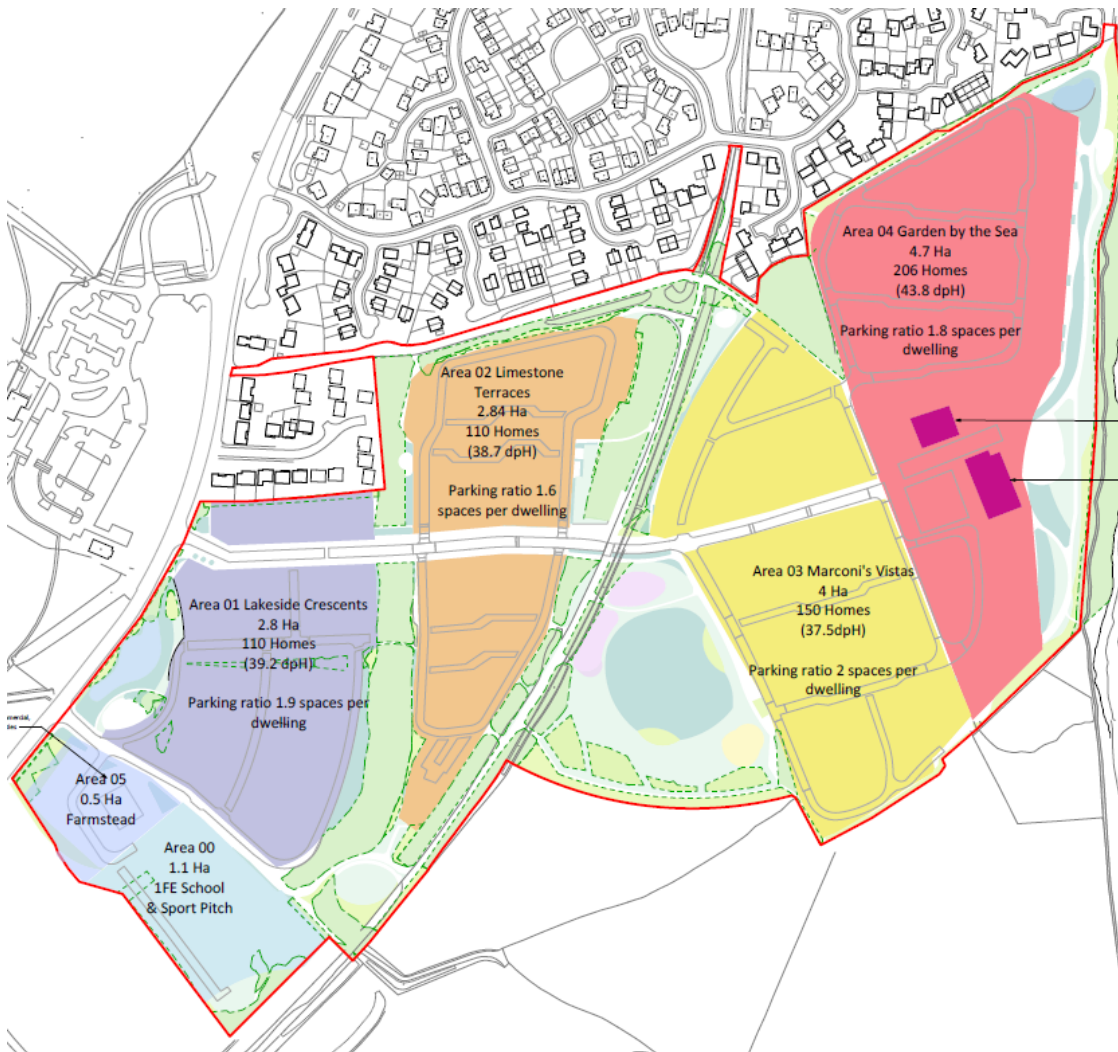
can be dealt with by way of condition requiring a suitable programme of archaeological work, and advise that the farm buildings should be retained in situ within the development. Since the provision of their original comments, the historic farmstead buildings have now been listed by Cadw and are shown to be retained for future beneficial use. As such they recommend that a written scheme of investigation for a programme of archaeological work to protect the archaeological resource be attached to any consent granted by members.

Concerns that are raised within representations with regard to third party findings, including trial trenches that suggest potential features of medieval origin within the site are noted officers queried this information with GGAT. Following clarification they advised that they are aware of the findings of this report, although advise that their recommendation with regard to the archaeological resource remains unchanged. To this end it is considered that the findings of the third party report, does not represent a reason to restrict planning permission and would be suitably covered by the condition proposed by the Council's archaeological advisors.

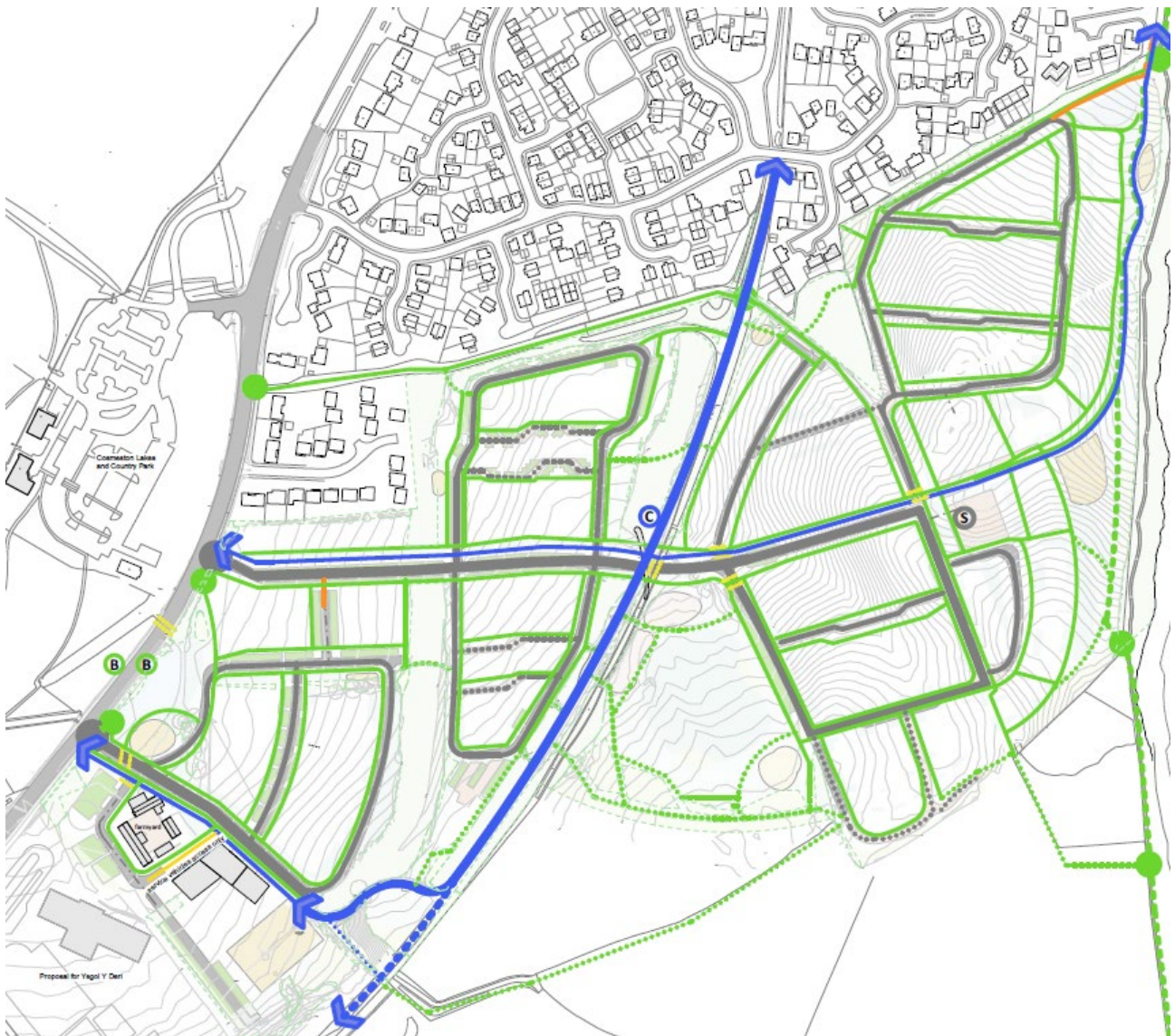
In summary, it is considered that the development would comply with the aims of Policies SP10 and MD8 of the LDP.

Design and Layout- Internal Road and Footpath Layout, and house design

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 (as shown above) and parameter plans, shown below for information.



Land use and density – showing positions of residential development (indigo, orange, yellow, red) and community/education uses (blue) within network of open space.



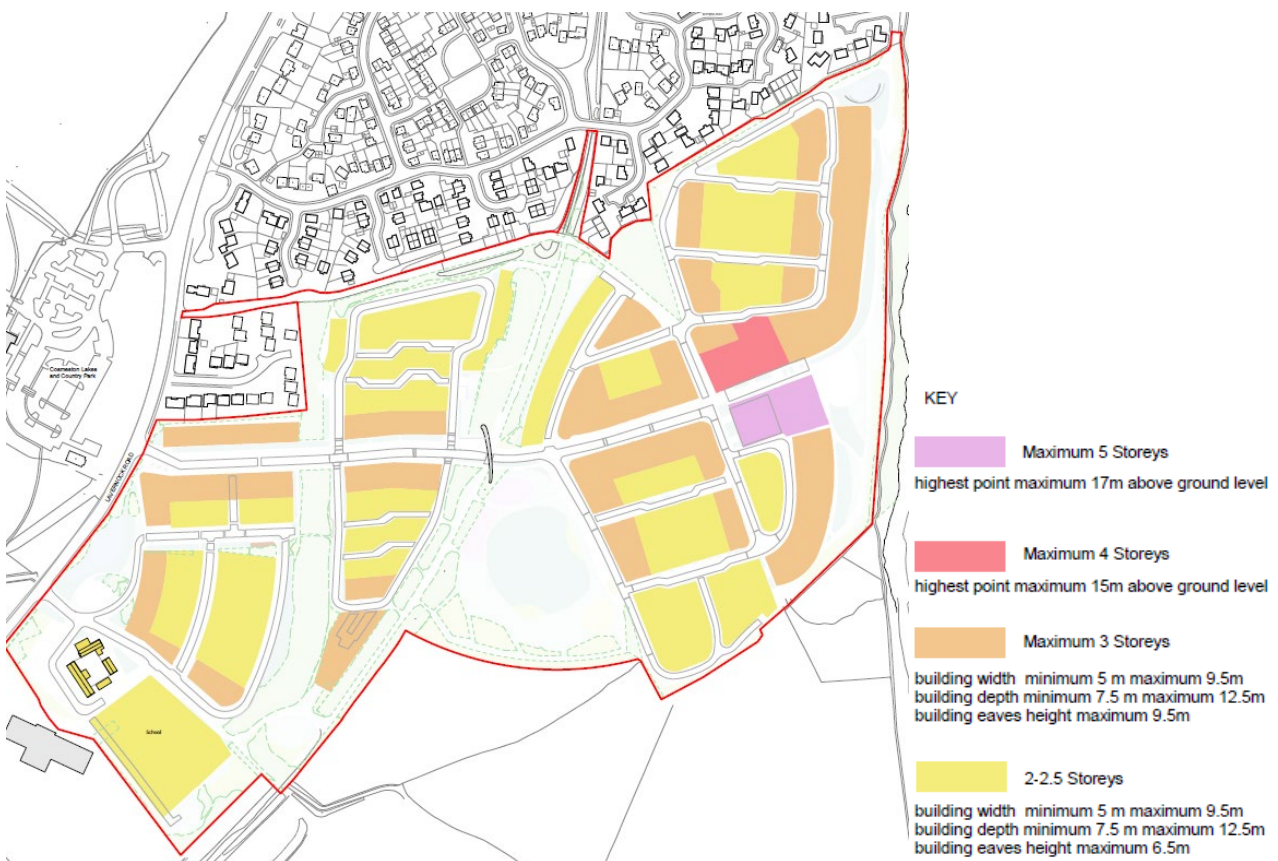
Access and movement plan with active travel routes marked in blue and pedestrian routes in green.

Whilst the plans are indicative, these parameter plans in turn are supported by a series of Design Codes that seek to provide additional details with regard to different character areas through the site. This provides a robust framework for potential developers that would submit any subsequent reserved matters applications and deliver the development of the site. This includes detail of a framework to achieve net zero carbon development; nature corridors and provide a framework for a highway hierarchy with clearly defined street typologies and four distinctive character zones across the site. Following significant discussion with the agent, the layout has been amended to include a principal area of open space adjacent to the existing route of the coastal path, maximising its coastal location, with a further principal green space being located centrally within the development and other smaller spaces within the respective character areas. This would also allow for the diversion of the coastal path at a later date into this open space. This is further developed within the codes to provide a Design Code Schedule to provide a set of clear mandatory and discretionary criteria for future development to meet.

Issues relating to the quantity and location of open space are discussed in the sections below, however, it should be noted that the open space within a reserved matters layout should be sited accessibly to all and in a location that would not be prejudicial to residential amenity.

In terms of road layout and development parcels, the master plan suggests two points of access from the Lavernock Road to the west, with the southernmost serving the school and a small level of residential and the northernmost the remainder of the site. The northernmost would be served by a primary 'boulevard' route that leads to a series of primary and secondary routes. The development parcels would appear to enable active frontages to the respective roads and a hierarchy of streets would potentially enable different character areas and a sense of place to be achieved. It will be particularly important to ensure that there is an active frontage to the main roads throughout the development and that the development does not turn its back, particularly to principal highway routes. The details provided are considered to be a suitable basis upon which future development of the site could be achieved. As such, is considered that the size and shape of the site gives scope for a development of an acceptable highway and building layout, and would be subject of suitable scrutiny at a later time through relevant reserved matters submissions.

Scale parameters have been submitted, as shown on the below plan and accompanying key:

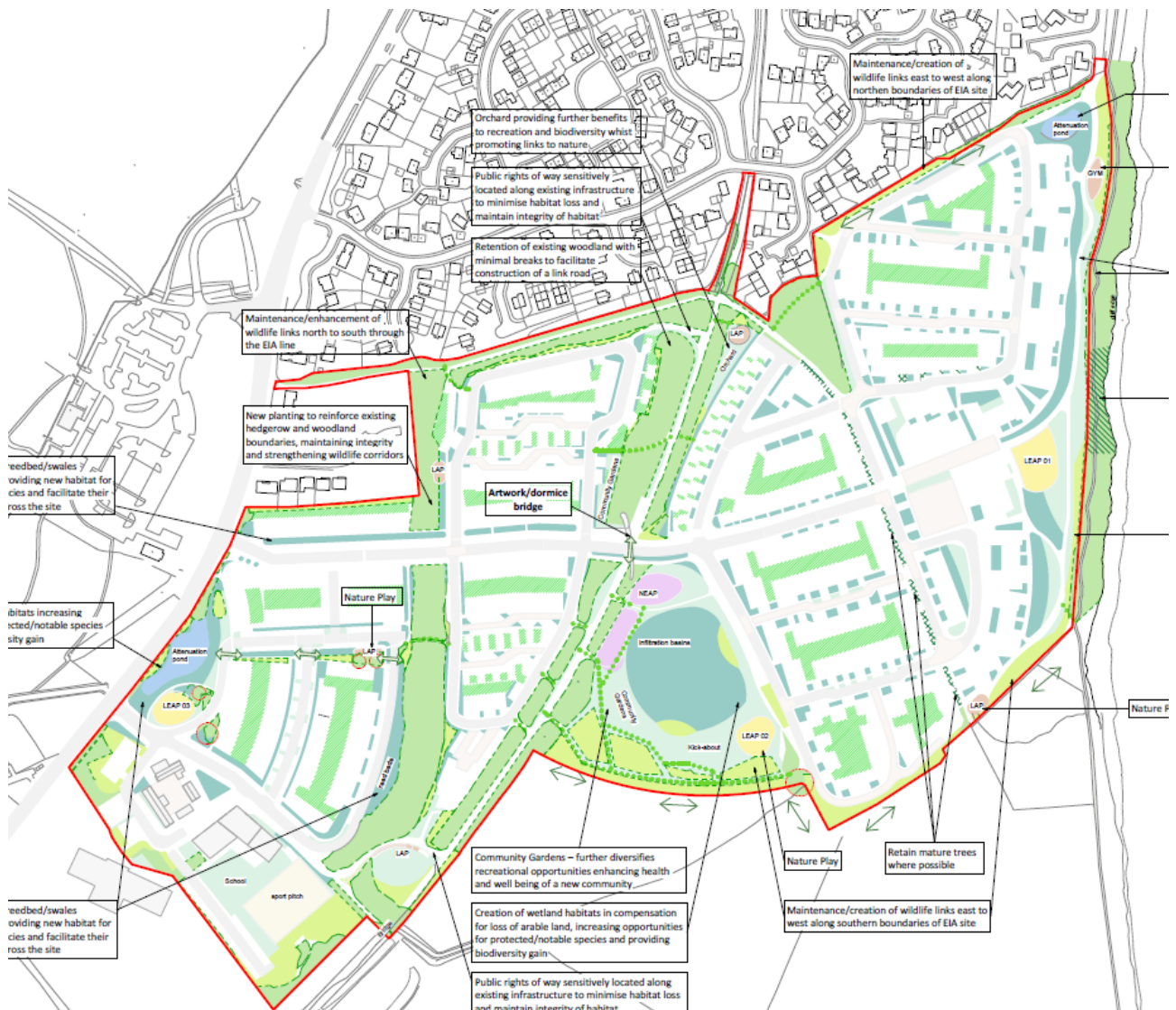


The parameters predominantly suggest dwellings of between 2-3 storeys across the site with maximum ridge heights of circa 12.5m in height although that does not infer that it would be acceptable for all dwellings to be the maximum heights indicated. Rather it would allow for an element of three storey development and in this context, where there is not an immediate relationship with existing streets of neighbouring developments, it is considered that an element of three storey development is likely to be acceptable in principle. In addition to the above, it is noted that a degree of 4-5 storey development is shown to the eastern plateau of the site, to provide a focal point of the development at the junction of the coastal path and primary routes through the site. It is considered that such an approach is acceptable in principle and again, whilst a maximum height of 17m is proposed it does not infer that the full extent of the buildings within these areas would be to their maximum heights.

Notwithstanding that, it would need to be demonstrated through detailed plans as part of a reserved matters application that any such development would be of an acceptable standard of design and scale to be suitable within its context. Extensive details and prescriptive house types across the development have not been submitted for consideration as part of this application and these would also be issues for any reserved matters submission, if outline permission is granted. Notwithstanding this, indicative details of the form of dwellings to achieve the layout across the site have been provided. For instance, in areas constrained between the highway and public open space to the east of the site, a dual-frontage dwelling type with roof gardens that avoid significant areas of enclosed garden have been provided to demonstrate that the balance of private space/public realm can be achieved. Such an approach is considered to be appropriate. Overall, noting that detailed design would be subject of further consideration at reserved matters stage, it is considered that the submitted design code, parameters and masterplan demonstrate that a suitable form of development could be accommodated within the site.

Public Open Space and Green Infrastructure

The application is also supported by a Green Infrastructure parameter plan as shown below:



The proposed development retains significant areas of green infrastructure including two retained tree belts, including that along the old railway line and that to the rear of existing properties at Lower Cosmeston Farm (with the exception of the route of the proposed west to east access road) and other areas of existing vegetation at the Old Quarry to the north of the site. Furthermore the proposals would allow for the provision of significant areas of open space including those to the east, west and centrally within the site, with strong linkages along identified footways and active travel routes. The formalised areas of open space (5 x Local Areas of Play, 3 x Local Equipped Areas of Play and 1x Neighbourhood Equipped Areas of Play), are also indicatively shown to be well spread throughout the development, providing ready and convenient access for future users of the development. The indicative layout also indicates provision of other forms of open space inclusive of allotments, community gardens and wetland habitats.

The green infrastructure shown on the plans is also considered to be largely consistent with the ecological constraints and mitigation required, although this is detailed within the ecology section later in the report and further below.

Planning Policy Wales Edition 12 Chapter 6, 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. It is noted that the application was submitted a significant time prior to the introduction of this requirement, although it is noted that the parameter plan submitted indicates that a significant majority of existing structural planting within the site would be retained within the development, including north-south vegetated areas running along the old railway line within the centre of the site.

It is acknowledged that the submissions indicate that large parts of hedgerows to the west adjacent to Lavernock Road and that running east to west through the easternmost parcel will need to be removed to facilitate development of the site, whilst a circa 24 metre gap would be introduced across the central north-south linear hedge along the old railway line to facilitate the provision of the access road. Chapter 8 of the Environment Statement calculates that circa 7,603m² of hedgerow would be lost in total. The proposals would also likely result in the loss of a relatively low number of trees, including those adjacent to the old farmhouse, and centrally within the westernmost field parcel. The loss of trees and hedgerow is regrettable as part of the works albeit the submissions indicate the majority of those likely to be lost would be category C1 'low quality and value'. There would be the loss of some category B1 'moderate quality and value' trees and hedgerow, albeit this would be limited in their number, to 2 individual specimens and group adjacent to the farmstead, which are largely ash and an element of mixed species hedgerow within the eastern field parcel. Whilst the proposals are in outline with all matters bar access reserved, the applicant details that circa 13,700m² of replacement hedgerow planting would be provided, with other measures such as orchard planting and reinforcement of existing green infrastructure being provided.

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), and as such the amount proposed above would currently fall below that level. . 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. It is however acknowledged that the recently update to Planning Policy Wales (12th ed) at paragraph 6.4.42 requires replacement planting at a minimum ratio of 3:1. In this instance, it must be acknowledged that the proposals are in outline and seek to retain the majority of structural planting within the site. Roadside hedgerow adjacent to Lavernock Road is likely to be significantly impacted owing to the access, visibility and footway provisions shown within the submissions, albeit it is not to say that any hedgerow could not be translocated or suitably mitigated within any reserved matters submission and through the submissions for proposed conditions to seek to achieve the above level.

Planning Policy Wales 12 advocates a step-wise approach for local planning authorities to ensure biodiversity enhancement (within paragraph 6.4.14). Noting the site is allocated for residential development it is not possible to avoid all harm to biodiversity interests at the site, although it is considered that subject to consideration of more detailed submissions at reserved matters and subject to the proposed conditions that the proposals would suitably minimise, mitigate and compensate for green infrastructure and ecological interests within the site. Further consideration of this is provided within the ecology section later in this report.

The Green Infrastructure Plan details significant areas of replacement hedgerow and reinforced tree planting that would be provided through the site, in addition to wetland habitats and swales that would form part of any SAB submission and would be more fully detailed within a reserved matters submission. It is considered that subject to a suitable suite of conditions, including those referred to elsewhere within the report and ongoing

management of the site, that the site can be developed in a manner that would minimise and achieve suitable mitigation and compensation within the site and would provide suitable mitigation for habitat loss and enhancement of those to be retained. As such the proposals are considered to comply with the provisions of PPW and of Policy MD9 of the LDP in this regard.

Land Contamination

Policy MD7 of the LDP sets out that development proposals will be required to demonstrate that they will not result in unacceptable impact on people... and/or the natural environment from a number of risks including pollution of land, land contamination and hazardous substances.

It is acknowledged that concerns have been raised within representations in the consideration of the application with regard to the historic use of the site, including as a former Council landfill site. The submissions for the development of the site have been supported by a number of documents including but not limited to Phase 1 Geo-Environmental Desk Study; Phase 1 and Phase 2 Ground Investigation Reports; Phase 1 Desk Study and Phase 2 Geo Environmental and Geotechnical Assessment Report; Preliminary Control Water Risk Assessment; Geo-Environmental and Geotechnical Assessment, that include assessment of ground gas and contamination at the site. These assessments identify that some contaminants of concern are present within shallow soils that exceed some of the thresholds and guidance, including arsenic and some Polycyclic Aromatic Hydrocarbon (PAH) compounds, at a number of locations across the site. It is also acknowledged Total Petroleum Hydrocarbon (TPH) compounds were found in areas across the site and a single occurrence of asbestos. Following consultation with the Council's Shared Regulatory Services (SRS) It is acknowledged within the submissions that further investigation is required and would require contamination assessment; remediation and verification plan and a remediation verification report. They have confirmed that all of this information can be secured by way of condition) attached to any planning permission granted.

In terms of ground gas, SRS acknowledge that whilst the assessment was ongoing at the time of their comments, they note that findings 'indicate significant gassing in parts of the site and the need for ground gas protection measures across the development', and do indicate that there may be difficulties regulating allotment activities post construction. SRS indicate that further assessment is required to assess the risk associated with ground gas, including areas not previously investigated and assessment of ground gas as part of the construction process, that would in the form of a risk assessment, ground gas protection measures and verification plan and a subsequent verification report. Notwithstanding this, it is noted that although allotments are shown on the indicative plans, it is not to say that an alternative form of open space or community use could take place should any such further investigation indicate that the use would not be suitable. However, at this stage, it is considered that there is no objection to such activities in principle and this would be subject of further scrutiny through subsequent applications at the site.

Noting the above, with regard to both ground gas and land contamination SRS advise that conditions should be attached to any permission given relating to ground gas protection; contaminated land measures – assessment; contaminated land – remediation & verification plan; contaminated land measures – remediation& verification; unforeseen contamination; imported soils; imported aggregates; use of site won materials in addition to an informative with regard to contamination and unstable land.

In terms of potential contamination from historic use of the land, the Council's Drainage section advise that 'the use of infiltration systems should not be discounted because the site is or was contaminated' and endorse the conditions proposed by SRS. To this end, it is considered that any historical use of the site does not strictly preclude any suitable surface water drainage solutions, although this will be discussed later within the body of the report.

Natural Resources Wales indicate that they consider this site to be environmentally sensitive and having reviewed the information submitted agree that there is minimal risk to controlled waters from the contamination identified. They echo concerns raised by the Council's SRS with regard to unforeseen contamination of the site that may pose a risk to controlled waters if they are not remediated, in addition to risks associated with inappropriate methods of piling or drainage/infiltration issues. To this end they request that conditions relating to unsuspected contamination and associated remediation; surface water drainage and restricting infiltration unless demonstrated that there is no resultant risk and piling.

It is noted that one of the primary concerns received within neighbouring representations relates to potential contaminants at the site, including in terms of future health impacts for prospective occupiers and air and water quality issues. However, following consultation with relevant technical consultees, including the Council's Drainage Section, Shared Regulatory Services and Natural Resources Wales, based on the information available, noting all of the above, and subject to suitable conditions it is considered that the safety of future users of the site, neighbouring properties and the wider general public would not be prejudiced in accordance with the requirements of Policy MD7 of the Development Plan. Comments are acknowledged of the responsibility for historic contamination of the land, although this is not considered to be a material planning consideration in determination of this application, noting that relevant statutory consultees have advised that the development can proceed subject to a robust set of conditions.

Air Quality

Chapter 11 of the Environmental Statement provides an assessment of air quality issues that detail that construction activities have potential to release dust, although detail mitigation measures through a dust management plan. Operational impacts arising from vehicular movements from the site are predicted to be below necessary objectives for both future occupiers and existing neighbouring residents. Following consultation with the Council's Shared Regulatory Services section, they confirm that they have no objection to the development of the site, subject to details of dust control to be secured through a suitably worded construction environment management plan. As such it is considered that impacts upon air quality does not represent a reason to refuse planning permission in this instance.

Highways issues, including highway safety, public transport, pedestrian movements

The site would be accessed by two vehicular access points from Lavernock Road to the west, with their position not reserved for future consideration. The northernmost access point would serve the majority of the residential development proposed within the site, whilst the southernmost access point would serve the proposed school site, and the proposed education, community or commercial uses within the historic barn complex, in addition to a lower number of residential units. Further works are proposed along

Lavernock Road including bus stop provision and the provision of ghosted right turn priority junctions. A signalised toucan crossing and two additional bus stops are proposed along the frontage of Lavernock Road, in addition to enhanced footway along the frontage of the site. The proposals also seek to extend the Railway Walk footway cycleway to connect with and extend National Cycle Route 88 centrally through the site. The proposals would also connect with existing pedestrian infrastructure, including the Wales Coastal Path to the east, and the submissions also indicate that a Travel Plan will seek to encourage a modal shift towards active travel measures and to utilise the proposed pedestrian/cycle infrastructure.

Impact upon wider highway network

The application, as amended, is supported by a Transport Assessment prepared by Asbri Transport dated June 2022, that has been revised following initial feedback. These documents seek to assess the transport characteristics of the proposed development and identify the impact of the proposals on the surrounding transport network, including assessment of 10 junctions within the vicinity of the site, inclusive of the Lavernock Road/Westbourne Road priority junction; Lavernock Road/Dinas Road/Victoria Road crossroads and the Merrie Harrier junction.

The submitted Transport Assessment has been reviewed by Link Transport Planning, appointed by the Local Highway Authority. The review recommended a number of points that have been considered by the Local Highway Authority in the provision of their final comments, in which they indicate that they have no objection to the outline consent in principle albeit some concern remains with regard to the impact of the development on 3 junctions as discussed below.

The Local Highway Authority advise that the junction of Lavernock Road/Westbourne Road, will likely require improvements as a result of the development and this has been ratified by the review. They indicate that this could be in the form of either a mini-roundabout or ghost island right hand turn lane, subject to the findings of a suitable stage 1 road safety audit. Although the final scheme for the improvement to this junction has not yet been determined, the applicant has confirmed their agreement that these works could be required by way of a suitably worded condition. Noting that it would appear that the works can be undertaken within the extent of the adopted highway, it is considered reasonable and appropriate to secure any such works through a suitably robust condition to be attached to any consent granted.

With regard to the signalised junction of Lavernock Road/Dinas Road/Victoria Road, the Local Highway Authority also advise that this junction would be impacted upon as a result of the development, and acknowledge that this could be dealt with by altering the staging of the junction to provide a new two-stage signalised junction with right turn holding lanes in the centre of the junction allowing right turning movements depending on gap acceptance. Whilst they acknowledge that this should reduce the impact of the development on the junction however they have some concern with regard to the safety implications of right turn movements for two arms in the centre of the junction. As such they advise, on balance, that a potential improvement to the capacity of the junction should not be implemented if highway safety is impacted, and potential capacity improvements could be secured by way of a suitably worded planning condition, subject to the findings of the associated road safety audit.

In relation to the Merrie Harrier junction, it is noted that the Transport Assessment indicates potential for the development coupled with modelled increase in activity at the junction to be over-capacity during the AM peak in both 2027 and 2032, close to capacity in PM peak in 2027 and over-capacity in 2032. It goes further to state at paragraph 7.1.93 that *'While the additional development traffic does increase the level of delay, the impact is marginal. Once the Degree of saturation reaches 100% any additional traffic will have an increasingly unrealistic impact upon the modelled congestion and delay, with the absolute results having to be treated with caution in terms of interpretation.'* Following consideration of this and the instructed review, the Local Highway Authority advise that the development would have a material impact on this junction albeit they advise that any associated mitigation would be significant and complex. As such they advise that it would be beneficial for a contribution to be provided by the applicant/developer towards the improvements. Whilst this is noted, however, in the absence of a costed scheme and noting the thrust of adopted planning policy away from prioritising car travel, and the identified need for housing (inclusive of the proposed 50% affordable housing), are considered to outweigh any potential need for a contribution to this junction.

Noting all of the above, the Highways Authority indicate that subject to suitable conditions attached to any consent granted, that they have no objection to the development of the site as proposed, in terms of its location and associated impacts upon the wider highway network.

Highway safety of access and internal road layout

Following review of the access positions and their associated geometry the Council as Local Highway Authority have confirmed that they are satisfied with their position, in terms of highway and pedestrian safety. The position and arrangement of the accesses is therefore considered to be acceptable in principle.

During the course of consideration of the application, concern has been raised with regard to elements of the geometry and alignment of the internal estate roads. These concerns include those relating to the length and geometry of the proposed main boulevard running east-west across the site, providing access to the individual elements of the site. Whilst noting that the proposed masterplan provides a significant level of detail of the internal arrangements of the site, it is however, indicative in form and therefore, the exact alignment, geometry and form of individual roads and junctions would be subject of further deliberation at reserved matters stage and as such does not represent a reason to delay the grant of outline planning permission at this time. A suitably worded condition is proposed, to ensure that the masterplan and design codes are revised to ensure that the internal arrangements would be designed to relevant local and national highway design standards, as requested by the Highways Authority in this regard.

The current indicative details and supporting parameter plans show that that a degree of separate pedestrian/cycle infrastructure could be accommodated within the development with connections to existing off-site provision, including that to Lavernock Road, NCN88 and the Wales Coastal Path. It is noted that the Council as Local Highway Authority have provided comments in this regard including a number of suggested conditions with regard to a number of matters such as the provision of footway cycle linkages east-west, the ability of large vehicles to manoeuvre through the site; the hierarchy and design of roads, linkages to the school including point of access, level of parking provision; tracking/geometry requirements for refuse vehicles and buses; suitable service, pick up/drop off and delivery areas to serve the school. Given that no objections are maintained by the

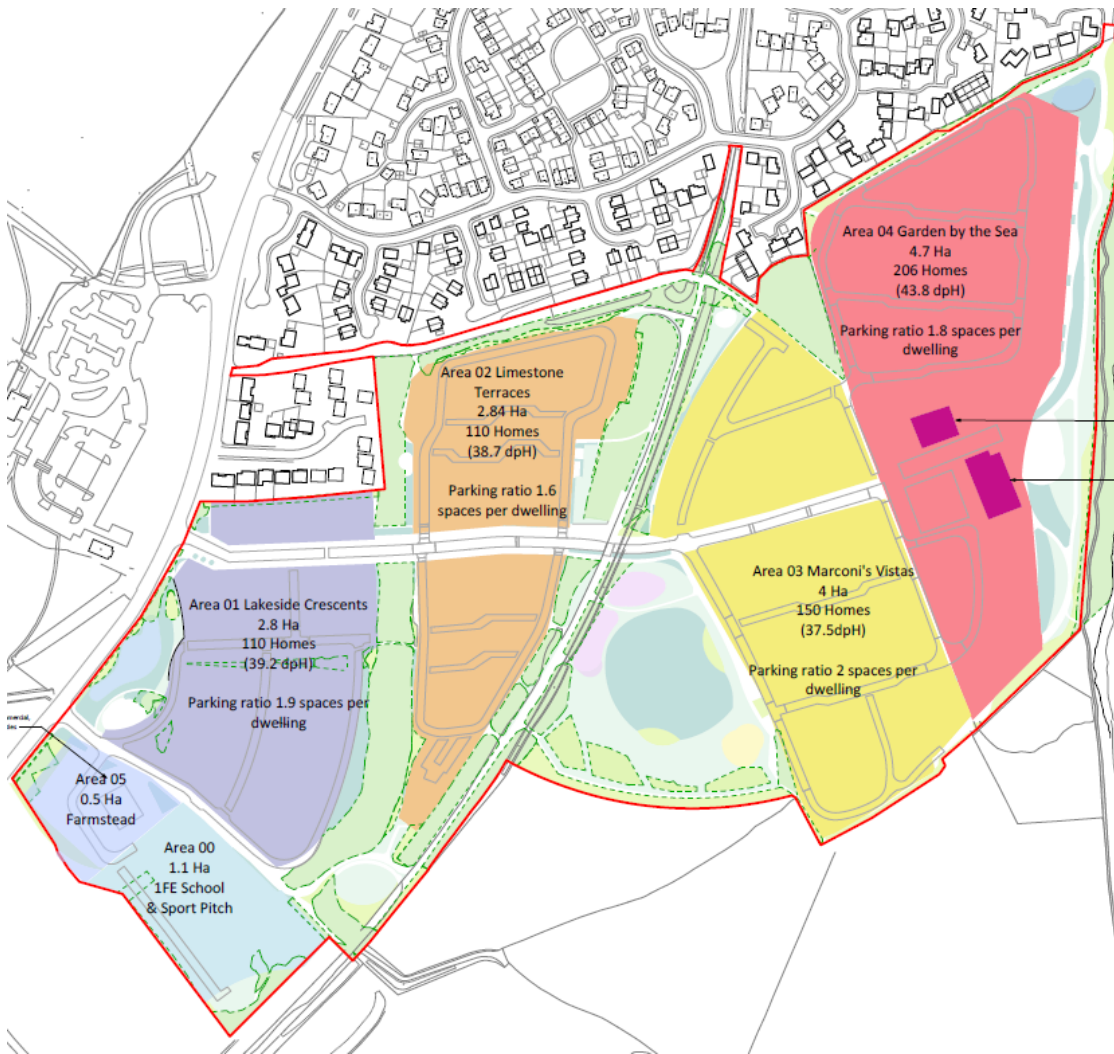
Local Highway Authority in these regards and fundamentally the internal layout of the residential development (inclusive of the provision of parking, footway/cycleways and cycle parking facilities) is a reserved matter that will be considered under any future reserved matters applications, it is not considered to be strictly necessary to have conditions relating to these elements. Similarly, whilst full engineering details and design calculations would be required prior to the commencement of development, it is not considered necessary to require these details to be submitted with any reserved matters submission but prior to any commencement of development at the site. Reserved matters applications would also afford opportunity to consider the scheme in terms of prioritising pedestrian and cycle movements for users within any future layout, and ensure that gradients of active travel routes are suitably compliant. It is however, acknowledged that development of the main route through the site 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. Given that this element would likely extend across a number of phases it is considered reasonable and necessary to have an explicit condition requiring further detail of this prior to the submission of any reserved matters application. With regard to other detailed design matters, any future submissions would need to suitably demonstrate that the highways layout achieves a suitable and safe layout.

It is noted that concern has been raised with regard to the potential road access and link, with Whitcliffe Drive to the north-east of the site. It is acknowledged that a form of link is shown on the masterplan, although the need and nature of any such link would be subject of detailed consideration within any reserved matters submission for this part of the site.

Conditions requested by the Local Highway Authority, relating to the requirement for the developer to enter into SUDs and S278 agreements, would be subject of suitable informatives attached to any consent granted.

Parking

The submitted land use parameter plan provides an indication of proposed parking levels to serve the residential elements across the site as shown below:



The proposed car parking ratios are indicated as providing between 1.6 to 2 spaces per home across the site. The Council's adopted Parking Standards SPG for dwellings are **maximum** parking standards, and advice within PPW and TAN12 indicates that a designed approach should be taken to parking to avoid parking dominating the style and form of development and to encourage a modal shift away from reliance on the car. Indeed paragraph 4.1.51 of PPW states '*Planning authorities must support schemes which keep parking levels down, especially off-street parking, when well designed.*' The submissions, including the planning statement and transport assessment, indicate that the proposed proximity to existing bus, walking and cycle routes and proposed improvements in this regard, indicate that it is stated aim to achieve higher level of active travel and change in transport modes.

Paragraph 4.1.52 of PPW goes on to state that '*Planning authorities must require good standards of car parking design, which do not allow vehicles to dominate the street or inconvenience people walking and cycling. This includes preventing pavement parking through the design of the street. Car parking should be overlooked by surrounding properties to provide natural surveillance.*' Paragraph 4.153 also stated that '*parking standards should be applied flexibly and allow for the provision of lower levels of parking and the creation of high quality places.*' The proposed design code and submissions seek to demonstrate that this can be achieved and form a basis for subsequent reserved matters submissions. Noting all of the above, it is considered that the proposed parking ratios are acceptable in principle and would be subject of further consideration at reserved matters stage when the exact composition and form of accommodation would be known. As such although it is noted that

highways request a condition that the proposals should meet the Council's Parking Standards this, and the provision of suitable level of EV charging throughout the development, is a matter that will be considered fully at reserved matters stage and as such a condition is not attached in this regard. To this end, and noting the substantive thrust away from car-led developments, this does not represent a reason to delay the grant of outline planning permission in this instance.

Overall, having regard to all of the above, and noting that the lack of objection from the Local Highway Authority section, it is considered, subject to suitable conditions and scrutiny through the reserved matters submissions, that having regard to highway capacity and safety, that this would not represent a reason to delay the grant of planning permission in this instance.

Impact on residential amenity of occupiers of neighbouring properties

The application does not have a particularly close relationship to existing residential properties to the south, east or west. However, it is acknowledged that the development is bordered by residential development along much of its northern boundary. The indicative masterplan, provides a prospective layout for residential development of the site and is shown to include up to three storey dwellings along the southern and eastern boundaries of properties within the cul de sac of Upper Cosmeston Farm. Dwellings in this location would undoubtedly change the outlook from these properties, with the indicative masterplan suggesting that such dwellings would be within circa 21 metres of the rear of the dwellings themselves.

Elsewhere, the indicative masterplan shows properties near to the northern boundary of the site adjacent to existing properties, albeit indicating separation across proposed roads or across established landscaping features, that demonstrate that the dwellings could be suitably located. Noting that the details are submitted in outline, with detailed design matters inclusive of appearance, layout and scale to be determined through a subsequent reserved matters submission, the exact position and design of these dwellings would be subject of further scrutiny at a later time. As such any associated impacts would need to be considered in lieu of appropriate policy and guidance (including separation distances detailed within the Residential and Householder SPG), although the location of dwellings shown on the submitted masterplan and other documents are not considered to be unacceptable in principle. Furthermore, it is acknowledged that the development of the site would undoubtedly result in an altered view from these properties noting the changing nature of use of the site. Such impacts are not considered to be prejudicial to 'living conditions' and residential amenity directly, and as such this would not represent a reason to refuse planning permission.

The indicative concept plan shows potential for increased recreational activity and pedestrian movements adjacent to existing properties including 37 Whitcliffe Drive, properties backing onto the old railway line in Shearwater Close, Cosmeston Drive & Fulmar Close. Whilst a degree of additional activity would occur, it is considered the introduction of a predominantly residential use within the site, should not give rise to any excessive disturbance and certainly not to a degree to prevent the grant of planning permission in this instance. However, further consideration is such impacts and any associated mitigation, would need to be considered in detail through any reserved matters submission.

It is also noted that a play area is shown on the indicative plans adjacent to the boundary with the properties Upper Cosmeston Farm. Should the applicant wish to promote a layout with a play area in that location, further consideration would have to be given to the likely impacts on the amenity on neighbouring properties in this location. If it were determined that this siting would be harmful to the living conditions of the occupiers, then the play area would need to be sited elsewhere within the site. However, given that 'layout' is not a matter for consideration now, this is not fundamental to the consideration of granting outline planning permission.

Having regard to the above, it is considered that the development of the site can appropriately protect the residential amenity of neighbours, in accordance with Policy MD2 of the LDP. A Construction Environmental Management Plan (CEMP) condition is recommended to ensure that construction impacts are minimised as far as possible whilst other potential impacts arising from the development would be considered in detail through any reserved matters submission(s).

Amenity of the future occupiers of the site.

Amenity considerations relating to the siting of buildings and windows would be determined by the detailed layout submitted with a reserved matters application(s). Any layouts would need to ensure that the aims of Policy MD2 and the Council's Residential and Householder Development SPG are met.

The indicative layout provided demonstrates that the properties would largely be served by private gardens or shared amenity space in the case of the flatted blocks, demonstrating that in this indicative form that a satisfactory layout could likely be achieved. Noting that, design and layout are reserved matters, the level and position of any such provision would likely be subject to change from that shown on the masterplan and this would need to be fully considered with the benefit of a layout with a reserved matters submission.

As noted within the consultation section of the report, an issue of amenity raised is the potential impact from traffic on Lavernock Road. The Council's Shared Regulatory Services Officer has advised that they concur with the conclusions and results of the Noise Assessment submitted. They acknowledge however that housing proposed to the far west of the site would likely require suitable mitigation but that this would not require substantial mitigation such as whole house mechanical ventilation. This would be a consideration within any reserved matters submission for this part of the site.

However, subject to suitable noise mitigation to be demonstrated within a reserved matters submission for the western part of the site (and this will likely be affected by the specifics of a detailed layout) it is considered that the site would not be subject to unacceptably harmful noise nuisance and the proposals comply within Policy MD7 in this regard.

Drainage and flood risk.

Policy MD7 of the LDP requires that development proposals will be required to demonstrate that they will not result in unacceptable impact on people... and/or the natural environment from a number of risks including flood risk and consequences (5).

The application as amended has been supported by a Flood Consequence Assessment and Drainage Strategy prepared by Cambria Consulting dated June 2022. In summary this states the development satisfies TAN15; surface water drainage strategy proposes restricted discharge into Sully Brook detailing attenuation storage and interception would be provided through SuDS drainage design and would comply with relevant SuDS standards.

The majority of the site is located within DAM Zone A that is considered to be at little or no risk to fluvial or coastal / tidal flooding, although it is noted that the very west of the site and Lavernock Road fall within DAM Zone B. TAN15 advises with regard to Flood Zone B 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.' The indicative layout provided indicates that residential development would be outside of the identified flood area, although the access and adjacent highway network would be within the identified area. However, having regard to the guidance contained within TAN15 it is considered that the proposed development of the site would meet the relevant justification tests and as such this does not represent a reason to refuse planning permission in this instance.

It is noted that concern has been raised with regard to the impact of development upon surface water flooding issues on Lavernock Road. It is evident from consultation with the Council's Drainage Section, that they are satisfied that a suitable surface water drainage scheme can be accommodated within the site and that this in turn should mitigate any potential off-site impacts. Furthermore, any existing surface water issues adjacent to the site entrance would not render the development of the site, as being unacceptable in principle. Officers are therefore satisfied that this matter can be adequately dealt with through the SAB approval process, to safeguard the health and wellbeing of future users of the site and to avoid any unacceptable increase in off-site surface water issues.

It is indicated from the submitted details that surface water generated by the proposed development will be treated and attenuated by the use of SuDS features including attenuation basins and swales. Following consultation with the Council's Drainage Section they advise that the outline SAB scheme is suitable and has been reviewed under the SAB pre-application process.

As noted, above the drainage strategy details indicate a discharge into the Sully Brook which in turn would flow through the Cog Moors SSSI, that is frequently flooded by the Sully Brook and its network of ditches. As such they advise that at detailed design stage, it should be demonstrated that suitable measures are put in place so that any discharge into Sully Brook would not result in a deterioration of water quality or pollution to Sully Brook. It is considered that this can suitably be considered through SAB approval (specifically standard S3 (Water Quality) of the statutory SuDS standards for Wales) and through the CEMP.

NRW maps also indicate that there is a high risk of surface water flooding in specific areas of the site although these are significantly localised and it is considered that the risk of surface water flooding for the majority of the site is seen to be very low. To this end, and following consultation with the Council's Drainage Section, it is considered that any associated risks could be suitably mitigated through SAB approval and through careful consideration of any subsequent reserved matters applications.

With regard to foul discharges from the site Welsh Water have advised that there is capacity within the public sewerage network and that further details of a detailed foul sewerage scheme can be secured by way of a suitably worded condition. With regard to surface water drainage they advise that they have no objection to the drainage strategy proposed that seeks to discharge to a surface water body and utilised SuDS features through the site, and offer no objection in principle. They also advise that prior to the submission of the application, a hydraulic modelling assessment was undertaken that demonstrates that suitable solutions can be provided to ensure that the development can be served with an adequate water supply, subject to a condition being attached to any consent granted.

Further to the above, Dwr Cymru Welsh Water also advise that the site is crossed by a 1450mm sewer and advise that an easement would need to be maintained. However, any encroachment of this asset identified within the plan attached to DCWW comments would be limited to the southern extremity of the indicative school site away from any development shown within the indicative masterplan and as such is not considered to represent a significant constraint to the development of either the school or the wider site. An informative will be attached to any consent granted in this regard.

Cliff erosion

Technical Advice Note 14 advises that 'Local Planning Authorities should ensure that they have adequate information and advice to decide land allocations in the coastal zone and ensure proper consideration is given to physical and biological processes in the determination of planning applications...' In areas with eroding cliffs it indicates that site reconnaissance study followed by detailed investigation should be undertaken in support of the application.

Paragraph 6.5.17 of Planning Policy Wales (12th edition) states that 'Shoreline Management Plans will influence whether development itself can be justified or how it should be designed'. It goes further to state that '*proposed development in areas of coastal change should only take place where risks and consequences are understood and can be acceptably managed over the lifetime of the development.*'

The site is located in close proximity to the coastline to the east, that is noted within the relevant Shoreline Management Plan with this document '*predicts some erosion to cliffs at Lavernock and recommends no active intervention at this location.*' The existing cliff line does not benefit from any current defence infrastructure, nor is there any proposal to provide any. As such the suitability of the site in this regard, is a material consideration.

The indicative masterplan indicates that with the exception of the open space areas to the eastern side and realigned Wales Coastal Path that dwellings and associated gardens/paths to the eastern edge would be set circa 35-50m from the back edge of the cliff. Section 9.5.35 of the Environmental Statement recommends that a buffer of 10m would be maintained between the existing cliff edge and any critical infrastructure. The Council's Drainage section advise that such a separation would be appropriate albeit, NRW request that a 20m buffer would be more appropriate, noting the position of the site adjacent to the neighbouring SSSI.

The Council's Drainage section originally raised objection to the proposals, pending the completion of an accurate topographic baseline survey of the existing cliff face, noting the coastal location of the development and to inform potential implications for the development of this currently undeveloped land with a lack of vulnerable receptors and to provide the basis for a suitable long-term monitoring plan. Following the receipt of further information, inclusive of further survey work of the cliff, they confirm that they are satisfied with the proposals subject to further details to be submitted in support of any subsequent reserved matters application and a commuted sum towards future monitoring of the cliff and its relationship with the development. As such they recommend that conditions requiring a programme of topographic surveys of the cliff face and assessment of erosion rates be provided in support of any reserved matters application; an assessment of potential impact of future erosion on critical infrastructure shall be provided in support of reserved matters applications; a long term programme of cliff monitoring shall be established and a requirement for any structures within 10m of the cliff edge be removed during the lifetime of the development. Subject to these requirements being secured through appropriate design at reserved matters stage and through relevant conditions and a legal agreement attached to any outline consent given to secure ongoing monitoring of the cliff face through the lifetime of development, it is considered that the proposals comply with the relevant policy requirements including that within TAN14 and PPW.

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.

The site itself is free of a recognised ecological designation, albeit there are features including trees, hedgerows and buildings that may provide features that could support wildlife. The River Severn, runs along the eastern boundary of the site that is recognised as a Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and an NRW Ramsar Site.

As such policies MG19 'Sites and Species of European Importance' and MG20 'Nationally Protected Sites and Species' of the Local Development Plan would be of relevance in determination of the application.

Policy MG19 states:

Development proposals likely to have a significant effect on a European site, when considered alone or in combination with other projects or plans will only be permitted where:

- 1. The proposal is directly connected with or necessary for the protection, enhancement and positive management of the site for conservation purpose; or*
- 2. The proposal will not adversely affect the integrity of the site;*
- 3. There is no alternative solution;*
- 4. There are reasons of overriding public interest; and*
- 5. Appropriate compensatory measures are secured.*

Development proposals likely to have an adverse effect on a European protected species will only be permitted where:

1. *There are reasons of overriding public interest;*
2. *There is no satisfactory alternative; and*
3. *The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*

Policy MG20 states:

Development likely to have an adverse effect either directly or indirectly on the conservation value of a site of special scientific interest will only be permitted where it is demonstrated that:

1. *There is no suitable alternative to the proposed development; and*
2. *It can be demonstrated that the benefits from the development clearly outweigh the special interest of the site; and*
3. *Appropriate compensatory measures are secured; or*
4. *The proposal contributes to the protection, enhancement or positive management of the site.*

Development proposals likely to affect protected species will only be permitted where it is demonstrated that:

1. *The population range and distribution of the species will not be adversely impacted;*
2. *There is no suitable alternative to the proposed development;*
3. *The benefits of the development clearly outweigh the adverse impacts on the protected species; and*
4. *Appropriate avoidance, mitigation and compensation measures are provided.*

The application has been supported by a raft of survey work that has been collated by EDP within Chapter 8 of the Environmental Statement and most recently updated in April and October 2022 owing to the time elapsed since the application was originally submitted.

The submissions identify important ecological features within the site comprising of semi-natural broad-leaved woodland and native hedgerows. Breeding birds are noted within the site although the *'assemblage of birds within the application site represents widespread and common species, although the hedgerows and woodland offer suitable nesting habitat'* and the site is considered to be of county importance for breeding birds. Bats are noted within the site although their abundance and diversity is considered to be typical of an urban edge location; suitable habitat is noted for dormice and a low number of slowworm are noted to be resident within the site. As such the site is considered to be of local ecological importance for these species.

Six buildings and the two railway bridges within the site were surveyed for bats. Summer day roosts for a low number of common pipistrelle and an occasional day roost within further buildings within the site have been noted. Trees within the site were also subject to surveys with 17 trees being identified as having high bat roosting suitability and 9 having moderate bat roost suitability, with wider use of the site for foraging and commuting. Following consultation with the Council's Ecologist and Natural Resources Wales, it is considered that subject to the need for a European Protected Species licence and the proposed mitigation measures identified (inclusive of retention of vast majority of woodland and habitat adjacent to central field parcel, additional woodland/hedgerow planting, compensatory roosts and a suitable lighting strategy for the whole site) identified within chapter 8 of the Environmental Statement, that the proposals would not be inherently harmful to the use of the site by bats.

Habitat within the site, including the linear woodland associated with the dismantled railway provides opportunities for foraging, commuting, hibernating, nesting and breeding for dormice, and are well connected to other suitable habitats within the wider landscape. The most up to date survey work identified two dormice nests within the site including within the hedgerow facing Lavernock Road and adjacent to the disused railway line running centrally through the site. Following consultation with Natural Resources Wales they indicate that they welcome the broad principles for dormouse mitigation detailed within the Environmental Statement and the Green Infrastructure Plan. It is acknowledged that a degree of disturbance and hedgerow loss is shown on the submitted plans to facilitate the indicative layout, particularly for the proposed main access road serving the north of the site and that indicated to be lost along the Lavernock Road frontage. It is however, noted that these details are indicative and that more detailed proposals should seek to retain hedgerow and woodland within the confines of the site; translocate any high value hedgerow and where appropriate provide a suitable ratio of replacement planting. As such NRW recommend that a dormouse conservation strategy to underpin the development of the site, should be secured by way of condition attached to any consent granted.

A small population of slow worm is identified within the site albeit confined predominantly to field margins and woodland boundaries. Whilst impacts are expected, it is noted that the population is considered of local significance and a negative impact expected in the absence of suitable mitigation. Suggested mitigation is suggested through the provision of a hibernaculum to the north-east corner of the site that would be secured by way of condition attached to any planning consent granted (included as part of the LEMP).

It is also noted that a number of species of bird utilise the site, including 7 priority species, with the breeding bird survey recognising the site as local/county importance.

The submitted Environmental Statement details a range of mitigation measures that would include a detailed design measures to be secured by conditions/through reserved matters submissions. These would include an Ecological Construction Method Statement and Detailed Landscape Strategy; and a Landscape and Ecology Management Plan and European Protected Species Mitigation Strategies.

The ES indicates a number of suggested mitigation measures that would be incorporated within the construction and design phases. In terms of construction these are indicated to include, but not be limited to:

- Retention of habitat for breeding birds, creation of grassland habitat, sustainable drainage features and enhancement of retained hedgerows to maintain opportunities for breeding birds within the site;
- Timing of vegetation clearance to avoid the recognized bird nesting season (March to August) and where not possible to ensure any clearance is supervised by a recognized ecologist;
- Retention of trees identified as providing suitable opportunities for bats within the proposals and where not possible such trees to be subject of inspection prior to their loss;
- Precautionary approach to demolition of buildings on site including timing of year to avoid roosting period of bats;
- Development licenses to be sought from NRW for any works associated with buildings where bat roosts are recognized;
- Provision of dormouse boxes prior to the commencement of clearance of any potential dormouse habitat;
- Sensitive clearance methodologies of dormouse habitat.

Further mitigation measures are identified within the ES for during the operational phase of the development:

- Site wide Ecological Management Plan, including monitoring of retained/created habitats and compensation measures;
- Integration of habitat and wildlife features through the development;
- Formal landscaping proposals inclusive of suitable tree and hedgerow planting
- Offset of development from retained trees/hedgerows;
- Sensitive lighting strategy;
- Range of bird boxes for different species;
- New bat roosting features (inclusive of bat boxes, tubes, bricks) to be provided across the site to compensate for loss of roosts;
- Suitable planting to provide feeding and foraging opportunities for species identified and management of habitat;
- Provision of dormouse boxes;
- Hibernaculum and habitat creation for reptiles.

As noted, above there has been extensive consultation and discussion with NRW and the Council's Ecologist throughout the application process. In the absence of objection, and subject to a range of suitable conditions being attached to any permission as detailed above, it is considered that in principle the development of the site can be suitably delivered and mitigated in ecological terms. Any associated impacts would be subject of conditions attached to any planning consent granted and also would form part of consideration of the reserved matters submission(s).

Bats, slow worms & dormice 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 are dormice, bats and slowworms present within the site. Where bats, slow-worms and/or dormice 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 protected species 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 have been considered as follows.

In respect of test no 1, the proposal would have an overriding benefit in terms of providing housing on a site allocated for such purpose, including a number of affordable housing units, serving an evidenced need in the wider public interest within the Vale of Glamorgan.

In order to satisfy test no 2, the failure to provide housing on this allocated site for a substantial number of dwellings identified within the Local Development Plan, would likely result in pressure for development to be accommodated on other, potentially less suitable sites within the Vale of Glamorgan.

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; dormice conservation plan and other matters to be attached to any consent granted .

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.

Noting all of the above, it is considered that subject to suitable conditions attached to any consent granted and further detailed consideration at reserved matters stage, that there is not an in principle ecological constraint that would restrict the grant of planning permission at this time. It is considered that subject to the identified conditions the proposals would suitably minimise, mitigate and compensate for green infrastructure and ecological interests within the site in compliance with the step-wise approach within PPW.

Habitats Regulation Assessment

With regard to the situation of the site adjacent to the Severn Estuary SAC, SPA and SSSI a Habitats Regulation Assessment (HRA) has been undertaken by Soltys Brewster on behalf of the Council in support of the application. This indicates that *'the proposed works will have no tangible effects on the Severn Estuary EMS. The sources of impact are minimal, especially so given the scale of the potential impacts in relation to the size of the EMS'*. The reasons why the proposals are considered not to be significant are low risk of potential sources of impact and mitigation identified; majority of the site sloping away from the EMS boundary. Following this assessment, in consultation with the Council Ecologist, the planning department as the competent authority have concluded that no appropriate assessment would be required. As such and noting NRW generally indicate that they agree 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.

Dormant Mineral Site

Centrally within the site falls the dormant mineral site of Lavernock Quarry as identified by policy MG24 (7) of the adopted Local Development Plan. This policy states that the Council will seek to prevent further mineral extraction by seeking to serve prohibition orders at the identified long dormant mineral sites. Whilst the policy indicates that the restoration and after-use will primarily rely on natural regeneration, with regard to this site paragraph 6.1 42 states that *'for Lavernock Quarry, residential development will take place on the northern part of the dormant quarry allocated as part of MG2 (24) Land at Upper Cosmeston Farm, Lavernock'*. To this end, the proposals are considered to accord with the aims of this policy.

As noted previously part of the site also 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, it is considered that owing to the position of the site near to existing residential properties and land allocated for residential development, that the proposal would meet criterion 2 of this policy.

S106 Planning Obligations to mitigate the impact of development (to include affordable housing provision).

LDP Policy MD4 'Community Infrastructure and Planning Obligations' and the Council's SPG on Planning Obligations, sets out the policy framework for seeking new and improved infrastructure, facilities and services appropriate to the scale, type and location of proposed new development. In particular, the SPG on Planning Obligations sets out thresholds and formulas for each type of obligation, based upon different development types. Following consideration of the size of the development and the potential impacts and needs arising from the developments, the Council sought planning obligations as follows.

Affordable Housing

Technical Advice Note 2: Affordable Housing defines 'affordable housing' for the purpose of the land use planning system as housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford market housing, both on first occupation and for subsequent occupiers. Affordable housing includes:

- Social rented housing;
- Intermediate housing.

The site falls within the settlement boundary of Penarth and thus should deliver 40% affordable housing. Based upon a net gain of 576 dwellings, the site should deliver 231 affordable dwellings.

The 2019 Local Housing Market Assessment (LHMA) determined that 890 additional affordable housing units are required each year to meet housing need in the area. The need is further evidenced by the following figures from the council's Homes4U waiting list in the area in the wards of Sully, Penarth and Llandough:

	PENARTH	SULLY	LLANDOUGH
1 bed	437	58	114
2 bed	232	46	55
3 bed	105	13	27
4 bed	23	4	6
5 bed	3	0	0
6 bed	1	0	1
	801	121	203

There are also many people on the Aspire2Own waiting list for assisted home ownership properties in Sully, Penarth & Llandough:

	Penarth	Sully	Llandough
1 bed	12	4	0
2 bed	128	73	7
3 bed	81	58	4
4 bed	10	6	0
	231	141	11

The Council will require the affordable housing tenure to be provided at a ratio of 70% social rented (162 units based upon 576 units) and 30% intermediate, i.e. assisted home ownership (69 units based upon 576 units) consistent with the local housing needs identified in the Council's 2019 LHMA.

The application documents indicate that the affordable housing provision delivery at this site would be 50% of the dwellings provided through the application, that would exceed the requirement above, that is considered to represent a potentially significant benefit from the development of the site. However, this increased number does not represent a requirement of the relevant Policy (MG4) of the LDP nor the supporting SPGs and to this end this higher percentage whilst welcomed, could not be insisted upon within any relevant legal agreement that would have to refer to the requirement of policy (i.e. 40%).

The Council's Housing Strategy section have advised, that any additional provision should be for social rented accommodation given the evidenced acute need for this tenure, resulting in an additional 58 social rented units. Based upon 50% and reflecting Housing Strategy's comments above the mix should be reflective of the housing need data - mix of approximately 40% 1 bed units (88), 44% 2 bed units (97), 15 % 3 bed units (33) and 1% (2) 4 bed units for social rented properties and 25% 2 bed units (18), 62.5% 3 bed units (43) and 12.5% 4 bed units (8) for assisted home ownership.

In order to facilitate greater social mix and enable a greater variety in building form and design, as part of any future reserved matters the different types of affordable houses should be designed to DQR standard and dispersed about the site, in clusters of no more than 10 dwellings.

Sustainable Transport

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

Chapter 4 in Planning Policy Wales (PPW) (Ed 12) requires proposals to seek to maximise accessibility by walking, cycling and public transport to key locations, by prioritising the provision of appropriate on-site infrastructure and, where necessary, mitigating transport impacts through the provision of off-site measures, such as the development of active travel routes, bus priority infrastructure and financial support for public transport services.

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

For the provision and/or enhancement of off-site sustainable transport facilities and having regard to the cost of providing sustainable transport infrastructure and services as set in the adopted Planning Obligations SPG, the Council would require **£2,300 per residential unit (£1,324,800 based upon 576 dwellings)**. This would be used to make improvements within the vicinity of the site, such as:

- To facilitate the extension of local cycling facilities including NCN88 and shared footway cycling facilities along Lavernock Road towards Sully
- Provision of Next Bike Facilities
- Improved lighting and infrastructure along Railway Walk connecting the site to Penarth Town Centre to the North
- Improved bus services and stopping facilities adjacent to the site including on Lavernock Road
- Bus shelter upgrades to Lavernock Road and along services connecting the site;
- A trial to increase the frequency to bus services in the area, to reflect the increased number of dwellings; and
- Contribution towards community transport

The applicant has confirmed their agreement to the payment of this contribution.

Education

All new residential developments which are likely to house school aged children create additional demand on places at existing schools. PPW (ed. 12) emphasises that in order to achieve a “More Equal Wales”, development should promote access to services like education. PPW recognises that education is crucial for the economic, social and environmental sustainability for all parts of Wales.

School site provision

Policy MG6 in the adopted Local Development Plan (2011-2026) allocates land for a new nursery and primary school at land at Upper Cosmeston Farm, Lavernock (1.0 hectares). This is required as a minimum to meet the increased demand for school places as a direct result of new housing and associated population growth during the plan period in this area. The illustrative masterplan indicates the provision of such a site towards the south-west of the proposals. Concerns raised by the Council’s Education section were noted in consideration of the proposals, relating to the car park layout; dual community/school use of the pitch; the shape of the building and the proximity of the proposed school building and related cost implications. As noted within the applicant’s response to education, the submissions including the position and form of the school, inclusive of the proposed car park and pitch location, is in outline with all matters reserved. The applicant has clarified that any use of the pitch within the confines of the site by the community would be a matter to be agreed with the Education section and would supplement the public open space and community facilities offer on the wider site. The position of the site and its location near to the school is also not considered to be prohibitive to the provision of the school and as such it is considered that these matters can be suitably addressed in subsequent applications for the provision of the school. Inherently therefore the proposed school site is considered to be acceptable in principle and in any event would be subject of a subsequent application and suitable controls within any subsequent legal agreement.

The land would need to be transferred in a clean condition within the initial stages of the development, with appropriate fencing, levels, top soil, seed and connection to utilities, to be secured via the S106 Agreement.

In addition, to this and to address the educational needs of all future users of the sites, financial contributions towards existing school provision would be required as below.

Education contributions

The Council's formula for calculating pupil demand is contained within the Planning Obligations SPG, and indicates that based on the construction of 576 dwellings (not including circa 88 x 1 bed units based on Housing Strategy comments above in relation to 50% affordable housing provision), it is anticipated to yield the following number of children:

- Nursery – $488 \times 0.1 = 49$ children
- Primary – $488 \times 0.278 = 136$ children
- Secondary (11 to 16 yrs) – $488 \times 0.208 = 102$ children
- Secondary (post 16) - $488 \times 0.04 = 20$ young adults

Nursery and Primary

The existing schools serving this site are Evenlode Primary for EM (86%), Ysgol Pen Y Garth for WM (11%), St Josephs for RC (3%). In addition to the above in terms of English Medium Provision, Penarth is heavily subscribed in terms of demand for school places and therefore the allocated school site will be essential to meet demand for school places in the area.

English medium level

No existing or projected capacity overall to accommodate children emanating from the development at Evenlode Primary School or other schools. Requirement for 42 Nursery and 117 primary age children at a cost of £18,249 per place totalling £2,901,591.

Welsh medium level

There is spare capacity at Ysgol Pen Y Garth at primary level but not at nursery level. Requirement for 5 nursery places at £18,249 per place totalling £91,245

Denominational level

No projected capacity overall to accommodate children emanating from the development at St Joseph's RC Primary School. Requirement for 2 Nursery and 4 primary age children at a cost of £18,249 per place totalling £109,494

Total nursery and primary school S106 requirement: £3,102,330

Secondary Level

The current proportional split per educational sector for secondary and sixth form school aged children in this area is 93% English Medium, 6% Welsh Medium and 1% RC. Development linked to Stanwell for EM, Ysgol Bro Morgannwg for WM and St Richard Gwyn for Denominational.

English medium level

No projected capacity overall to accommodate pupils emanating from the development. S106 Requirement for 95 (11-16) pupils at £27,498 per place totalling £2,612,310 and 19 (16 – 18) secondary age pupils at £29,823 per place totalling £566,637. Total requirement for the two age ranges £3,178,947.

Welsh medium level

No projected capacity overall to accommodate pupils emanating from the development. S106 Requirement for 6 (11-16) pupils at £27,498 per place totalling £164,988 and 1 (16 – 18) secondary age pupil at £29,823 per place totalling £29,823. Total requirement for the two age ranges £194,811.

Denominational

No S106 requirement as there is sufficient capacity to meet demand.

Total secondary school financial S106 requirement £3,373,758

This amounts to a total financial contribution for the development of **£6,476,088**, in addition to the transfer of the school site as detailed above. The applicant has confirmed agreement to this contribution.

School transport

As set out in the Planning Obligations SPG, developers are expected to meet the initial cost of this additional pressure on school transport (for 3 years). Following consultation with our Active Travel Section there would be a requirement for the following contribution towards school transport arising from the development:

- St. Joseph's RC School – for 4 children for 3 years = £24,224 (£6,056 x 4 children)
- Ysgol Bro Morgannwg – for 7 children for 3 years = £29,925 (£4,275 x 7 children)

The applicant has agreed to the payment of this contribution.

Public Open Space

Residential developments are expected to make provision for Public Open Space and/or recreational facilities to meet the needs of the future population they will bring to the area. Open space offers vital opportunities for sport and recreation, and also acts as a visual amenity.

TAN 16: Sport, Recreation and Open Space (2009) states "*Planning conditions and obligations (Section 106 Agreements) can be used to provide open space, sport and recreational facilities, to safeguard and enhance existing provisions, and to provide for their management*".

Policy MG28 requires that 1 ha of the site be developed as public open space, and this allocation of open space is in addition to the requirements set out in the SPG (see supporting text at page 177 of the LDP). In addition to that, and based upon 576 dwellings, there would be a need for 3,341 m² of equipped children's play space and 7,350 m² other children's play space. There would ordinarily be a requirement for 21,381 m² of outdoor sports space, however, the site falls within the Sully ward (and is adjacent to the Plymouth ward) and both have a surplus of outdoor sports space currently.

Whilst the application is in outline, it is important to secure a layout that specifies the type and amount of space to be provided and strategic open space should be located relatively centrally to best serve the development, and it should be easily accessible for existing residential areas.

The submitted layout indicates that 1 x Neighbourhood Equipped Area of Play (NEAPs), 3 x Local Equipped Areas of Play (LEAPs) and 4 x Local Areas of Play (LAPs) are provided within the development that would appear to comply with the above policy requirements. Additionally open space is proposed within the submitted illustrative masterplan along the linear park towards the east of the site and within the additional land to the southern edge of the site adjacent to the attenuation ponds.

The NEAP is proposed to be located more centrally within the site compared to previous iterations of the plan, adjacent to active travel connections and accessible by all users of the site. The LEAPs and LAPs are also logically positioned around the site to provide logical locations for such provision, including the amended position of the linear park to accommodate the revised alignment of the Wales Coastal Path. To this end, it is considered that subject to control and provision of these areas as part of the S106 agreement and through details submitted with any reserved matters submission (s), that the indicative proposals demonstrate that sufficient open space could be accommodated within the proposals.

The applicant has agreed to the required level of provision.

Community Facilities

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

PPW (Ed 12) recognises the importance of community facilities and recognises that they *“perform various functions which cover a broad range of activities and services that can be delivered by the public, private and third sectors. Community facilities contribute to a sense of place which is important to the health, well-being and amenity of local communities and their existence is often a key element in creating viable and sustainable places. They can include schools, cultural facilities, health services, libraries, allotments and places of worship.”*

The supporting text to LDP Policy MG2 states that 0.1-0.2 hectares of land shall be allocated for a community facility. The revised masterplan indicates the provision of a community sports pitch within the school grounds to the south-west of the site, that could subject to agreement with the Council's education section, be combined with the school use in addition to community allotments; an outdoor gym and community spaces within the old farm building complex to retained to the south-west of the site and buildings within Limestone Square. It is considered that such a provision within the confines of the site would likely meet the requirements of Policy MG2 and would need to be subject of further consideration at reserved matters stage secured by the S106.

Public Art

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

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

The Council's adopted SPG on Public Art in New Development states that on major developments, developers should set aside a minimum of 1% of their project budget specifically for the commissioning of art and, as a rule, public art should be provided on site integral to the development proposal.

Public art should be considered early in the design process and be integral to the overall design of a building, public space or place. The choice of artists and the nature of subsequent work should be the subject of full collaboration from the outset between the artist, the local community and professionals involved in the design process. This is in accordance with TAN 12, paragraph 5.15.4. Further advice is available within the adopted Public Art in New Development SPG.

The submissions indicate that public art may also form part of the ecological mitigation strategy to provide a dormouse bridge across the proposed road into the site. Whilst the effectiveness of this would need to be demonstrated, it is considered that a robust public art strategy would be secured by condition (condition 41 refers).

The applicant has confirmed to the provision of public art as required.

Cliff Monitoring

In addition to the above, it is noted that the Council's Drainage Engineering Section has sought £59,150 towards ongoing monitoring of the cliff edge to be secured through a S106 contribution. This would facilitate ongoing monitoring by the Council over an anticipated 100 year lifetime of development to allow ongoing attention is given to any potential slips or impacts to critical infrastructure and other structures during that period. Following discussion, with the applicant's agent they have agreed to payment of this contribution.

Planning Obligations administrative fee

Following negotiation with the applicant a planning obligations administration fee of £66,697 has been agreed.

Other issues

It is noted that concern has been raised within representations with regard to the proposals resulting in the loss of the ability to re-open the railway along the historic route running centrally through the site. Concern is also raised with regard to any potential overlap with any development of a barrage within the River Severn. Whilst these points are noted, no formal plans are before the Council in either regard nor do either of these form part of the developing strategy within the replacement draft local development plan, and as such limited weight can be attributed to any potential conflict. As such, noting this and the extant allocation of the site within the LDP, these matters are not considered to represent reason to delay the grant of planning permission.

In terms of healthcare provision, concerns are noted with regard to capacity issues. Service-wide issues are acknowledged, however, 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.

RECOMMENDATION

APPROVE, subject to the below conditions and subject to a Section 106 Agreement to provide for the following (based on 576 dwellings):

- Procure that 40% (up to 231) of the dwellings built on the site pursuant to the planning permission are built and thereafter maintained as affordable housing units in perpetuity.
- Pay a contribution of **£1,324,800** towards sustainable transport improvements.
- Pay a financial contribution towards education requirements arising from the development of **£6,476,088**, in addition to the transfer of the 1ha school site to the Council.
- Provision of suitable open space within the confines of the site (inclusive of 1 x NEAP, 3 x LEAPs and 4 x LAPs).
- Pay 1% of project budget towards public art.
- Cliff monitoring contribution of **£59,150**
- To provide community facilities of circa 0.1-0.2 hectares within the development

APPROVE subject to the following conditions(s):

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 and timetable for each phase of residential development, the proposed school and all associated infrastructure, 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
 - The extent and nature of each phase
 - a timetable for implementation of each phase
 - Details of the protection and delivery of the green infrastructure as indicated on Drawing 0933 (Green Infrastructure Parameter Plan) and Drawing 0930 (Proposed Masterplan) from the outset of development works starting on site.
 - The development of the listed farm complex at Lower Cosmeston Farm
 - The provision of community facilities within the site
 - The provision of the school site

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, 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. 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.

3. 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.

4. 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.

5. The development shall be carried out in accordance with the scale parameters of ridge heights, widths and depths specified in the document entitled 'Parameter Plan – Building Parameters' (ref: UFC-ASL-00-00-DR-A-0932)

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

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

Existing site plan UFC-ASL-00-ZZ-DR-A-0900 Rev 02

Illustrative Masterplan UFC-ASL-00-ZZ-DR-A-0930 Rev P9

Proposed Parameter Plan - Land Use and Density UFC-ASL-00-ZZ-DR-A-0931 Rev P8

Proposed Parameter Plan - Building Parameters - UFC-ASL-00-ZZ-DR-A-0932 Rev P6

Proposed Parameter Plan - Green Infrastructure - UFC-ASL-00-ZZ-DR-A-0933 Rev P8

Proposed Parameter Plan - Access & Movement UFC-ASL-00-ZZ-DR-A-0934 Rev P6

Indicative Site Sections UFC-ASL-00-ZZ-DR-A-0950 Rev P5

Environmental Statement prepared by Asbri Planning submitted October 2020 as amended July 2022 (inclusive of replaced, new and updated chapters 5, 6, 7, 8, 10, 12 and 13)

Design and Access Statement prepared by Austin Smith Lord dated February 2022

Design Code parts 1, 2, 3 and 4 prepared by Austin Smith Lord dated April 2022

Planning Statement prepared by Asbri Planning dated September 2020

Planning Statement Addendum prepared by Asbri Planning dated July 2022

Flood Consequences Assessment ref CC1857-CAM-ZZ-XX-RP-C-00-0001 prepared by Cambria dated June 2022

Transport Assessment prepared by Asbri Transport dated July 2022

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.

7. No more than 576 residential units shall be erected on the application site.

Reason:

For the avoidance of doubt

8. Prior to the commencement of any development a scheme to investigate and monitor the site for the presence of gases being generated at the site or land adjoining thereto, 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.

9. No development (or site clearance) shall commence until an assessment of the nature and extent of contamination affecting the application site area [refer to plan to identify specific area within site] has been 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 Welsh Local Government Association and the Environment Agency Wales' 'Development of Land Affected by Contamination: A guide for Developers' (2012).

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.

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

All work and submissions carried out for the purposes of this condition must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WG / NRW guidance document ' Land Contamination: A guide for Developers' (2017).

Reason:

To ensure that information provided for the assessment of the risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems is sufficient to enable a proper assessment; 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.

11. The remediation scheme as approved by the LPA must be fully undertaken in accordance with its terms prior to the occupation of any part of the development. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Within 6 months of the completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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.

12. 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.

13. Any topsoil (natural or manufactured), or subsoil or 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 material 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.

14. 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.

15. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which shall be submitted by the applicant and approved in writing by the Local Planning Authority and the programme and scheme shall be fully completed as defined in the approved details.

Reason:

In order that archaeological operations are undertaken to an acceptable standard and that legitimate archaeological interest in the site is satisfied and to ensure compliance with Policies SP1 (Delivering the Strategy), SP10 (Built and Natural Environment) and MD8 (Historic Environment) of the Local Development Plan.

16. No buildings on the application site shall be brought into beneficial use until such time as reinforcement works to the local water supply network, at which the development shall connect, have been completed as identified in a Hydraulic Modelling Assessment and written confirmation of this has been issued to the Local Planning Authority.

Reason:

To ensure the site is served by a suitable potable water supply in accordance with Policy MD7 of the Local Development Plan.

17. No development shall commence until a foul water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul water flows and thereafter implemented in accordance with the approved details prior to the occupation of the development.

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policy MD7 of the Local Development Plan.

18. Prior to the commencement of works on site (including any site clearance), a detailed Dormouse Conservation Strategy shall be submitted for the written approval the LPA. The strategy shall set out the likely impacts of the proposals on dormice, and detail measures that will be put in in place to mitigate and/or compensate the impacts on dormice (as appropriate), building on the principles set out in Chapter 8 of the Environmental Statement, on drawing 0933, and in Appendix H of the PAC report. The strategy shall include:

- A plan showing habitat to be lost, created and retained, which should identify the extent and location on appropriate scale;
- Details of protective measures to be taken to minimise the impacts;
- Proposals to minimise the severance of dormouse habitat, including at least 2 safe crossings for dormice where green infrastructure is severed by the central spine/access road;
- Details of the nature and widths of dormouse habitat buffers, and where these will apply across the site; we would advise that these are planted with appropriate species
- Details of the condition of current dormouse habitat, proposed habitat enhancement measures, and the condition of dormouse habitat that these aim to achieve;
- Details of phasing of construction activities and conservation measures, including a timetable for implementation of mitigation demonstrating that works are aligned with the proposed phasing of the development;
- Details of initial aftercare and long-term management including details of who will be responsible for and how long-term management will be funded;

The Dormouse Conservation Strategy shall thereafter be implemented 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.

19. With reference to the detailed Dormouse Conservation Strategy approved as part of the outline consent, each Reserved Matters application shall include details of the specific measures that will be implemented for that phase of the development and confirm how they contribute to the implementation of the agreed Dormouse Conservation Strategy. The measures shall be approved in writing by the Local Planning Authority and implemented 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.

20. Prior to the commencement of any works on site associated with the matters approved as part of the outline planning permission, a lighting strategy shall be submitted to the Local Planning Authority for their written approval. The Lighting Plan should include:
- Drawings setting out the location of dark corridors
 - Details of the siting and type of external lighting to be used;
 - With respect to the consented access roads, drawings setting out light spillage in key sensitive areas (Eg. on mitigation/compensatory bat roosts, green infrastructure, attenuation ponds, drainage ditches, dormouse crossings, and where green infrastructure is intersected road infrastructure/paths);
 - An Environmental Lighting Impact Assessment against conservation requirements for protected species
 - Details of lighting to be used both during construction and operation
- The lighting shall be installed and retained thereafter as approved during construction and operation.

Reason:

To reduce the impacts of lighting in the interest of dormice and bats, their commuting corridors and foraging habitats in accordance with the requirements of Policies MG19 and MD9 of the Development Plan.

21. Each reserved matters application shall include full details of all external the lighting to be installed, for the written approval of the local planning authority. The Lighting Plan should include:
- Details of the siting and type of external lighting to be used both during construction and operation
 - Drawings setting out light spillage in key sensitive areas (Eg. on mitigation/compensatory bat roosts, green infrastructure, attenuation ponds, drainage ditches, dormouse crossings, and where green infrastructure is intersected road infrastructure/paths);
 - An Environmental Lighting Impact Assessment against conservation requirements for protected species
 - And information to demonstrate how it accords with the above lighting strategy

The lighting shall be installed and retained thereafter as approved during construction and operation of the respective phase of development.

Reason:

To reduce the impacts of lighting in the interest of dormice and bats, their commuting corridors and foraging habitats and to ensure compliance with Policies MG19 and MD9 of the Local Development Plan.

22. No development or phase of development shall commence until a Landscape Ecological Management Plan (LEMP) for the provision, management and maintenance of the landscape and ecological features at the site or specific phase, has been submitted to and approved by the Local Planning Authority. The LEMP should include:

- Details of habitats, environmental and other ecological features present or to be created at the site including details of the desired ecological conditions of features
- Details of a hibernaculum for slow worms to the north-east corner of the site
- Details of scheduling and good practice timings of management activities
- Details of short and long-term management, monitoring and maintenance of new and existing landscape and ecological features at the site to deliver and maintain the desired condition
- Details of replacement measures should any landscape or environmental features die, be removed or become seriously damaged or diseased within 5 years of completion of development
- Details of management and maintenance responsibilities
- Details of timescales, length of plan, the method to review and update plans (informed by monitoring) at specific intervals as agreed

The development of any particular phase shall thereafter be carried out in accordance with the approved LEMP (s).

Reason:

To ensure necessary landscape and environmental management measures are agreed prior to commencement and implemented to ensure the site's landscape and environmental features are adequately managed long term in accordance with Policies MD2, MD7 and MD9 of the Development Plan.

23. Each Reserved Matters application shall include details, for the written approval of the LPA prior to works commencing on site, of the works that will be implemented to fulfil the LEMP agreed as part of the outline consent. The details shall include who is responsible for funding and undertaking the works, and the mechanism for implementation. The approved details shall thereafter be implemented as agreed.

Reason:

To ensure necessary landscape and environmental management measures are agreed prior to commencement and implemented to ensure the site's landscape and environmental features are adequately managed long term and to ensure compliance within Policies MD2, MD7 and MD9 of the Development Plan

24. No development or phase of development, including site clearance, shall commence until a pre-construction ecological survey (including Bats and Dormice) has been carried out for the development or phase of development. If the survey confirms the presence of such species the results of the survey together with proposed mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be carried out in accordance with the approved details.

Reason:

To ensure the potential presence of protected species is confirmed prior to construction and where necessary remedial measures are implemented for their protection in accordance with Policies MG19 and MD9 of the Development Plan.

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

26. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority has been provided in writing, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason:

In order to ensure the amenities of nearby occupiers is protected and to ensure accordance with Policies SP1 (Delivering the Strategy), MD2 (Design of New Developments) and MD7 (Environmental Protection) of the Local Development Plan.

27. No development or any phase of development shall be carried out until the details of a buffer zone along the eastern boundary of the site have been submitted to and agreed in writing with the LPA. The buffer Zone will be of a scale and nature that will ensure that the special interest of the adjacent SSSI can be maintained in perpetuity. The details to be agreed shall include the maintenance and managed necessary to achieve its purpose and how this will be secured in perpetuity. The buffer zone will be implemented in accordance with the details agreed with the LPA.

Reason:

To safeguard the special interest of the Penarth Coast SSSI and to ensure compliance with Policy MG20 (Nationally Protected Sites and Species) of the Local Development Plan 2011-2026.

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), 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.considerateconstructorscheme.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) Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
 - xvii) Landscape/ecological clerk of works to ensure construction compliance with approved plans and environmental regulations
 - xviii) CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
 - (ixx) Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details

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.

29. 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), 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 shall be submitted to 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'.

30. Prior to commencement of development, a programme of topographic surveys of the cliff face and subsequent assessment of erosion rates shall be submitted to and approved in writing and undertaken with the specification, deliverables and timing of surveys to be agreed in advance by the Local Planning Authority. At least one additional survey shall be undertaken and compared to the baseline survey in support of any reserved matters application for development adjacent to the coast, to be agreed under condition 1 of this consent.

Any submission above, shall be supported by an assessment of the potential impact of future erosion on the sustainability of critical infrastructure as erosion starts to impact on the development and shall be undertaken in support of subsequent reserved matters relating to the layout of the development and position of critical infrastructure. This shall include means of ensuring that any buildings and structures falling within 10m of the cliff edge throughout the life of the development should be removed.

The construction and operation of the development (or phase of development) shall thereafter be undertaken in accordance with the approved details.

Reason:

To safeguard critical infrastructure and safety of future occupiers and to ensure compliance with Policy MD7 (Environmental Protection) of the Local Development Plan 2011-2026.

31. Prior to the commencement of the development of any phase of development hereby approved (as defined by condition 1 of this consent), 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) which shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be completed in accordance with the approved details and timings within.

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.

32. Notwithstanding the submitted details, 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 and hedgerow planting for the whole site or any phase thereof, 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 3:1 of the existing on the site as shown on the submitted details unless there is a sound ecological or arboricultural reason to provide a lesser amount.

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), MD1 (Location of New Development) and MD2 (Design of New Development) of the Local Development Plan.

33. 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), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

34. 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.

35. 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.

36. 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 to ensure the development accords with Policies MD2 and MD7 of the Local Development Plan.

37. 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.

38. No development (including site clearance and demolition) shall take place within each reserved matters approval, 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.

39. Within 1 month following the completion of the development in respect of each reserved matters application, a Second Condition Survey along the route agreed under Condition 38 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 approved under the reserved matters application 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.

40. Prior to the submission of any reserved matters submission, a revised masterplan and Design Code shall be submitted for approval of the Local Planning Authority, to demonstrate that principal road layout and junctions are designed to requisite local and national highway standards. Any subsequent reserved matters submission shall thereafter be designed in accordance with the approved details.

Reason:

In the interests of highway safety and to ensure compliance with Policy MD2 (Design of New Development) of the adopted Local Development Plan.

41. Any reserved matters submission shall be supported by full details of the public art to be provided on any respective part of the site. The Public Art shall thereafter be implemented on the site in accordance with the approved details no later than 12 months following the substantial completion of the respective phase of the development.

Reason:

To ensure the delivery of Public Art on the site in accordance with the Council's Public Art SPG.

42. Notwithstanding the submitted plans, prior to the commencement of development hereby approved, further details of a scheme of off-site highway works to facilitate improvements to the junction of Lavernock Road/Westbourne Road shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved works shall be constructed/completed in full prior to the first beneficial occupation of any of the dwellings hereby approved.

Reason:

To improve local highway infrastructure within the vicinity of the site and to improve highway safety on the local highway network in accordance with policy MD2 of the Development Plan.

43. Notwithstanding the submitted plans, prior to the commencement of development hereby approved, further details of a scheme of off-site highway works to facilitate improvements to the junction of Lavernock Road/Dinas Road and Victoria Road shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved works shall be constructed/completed in full prior to the first beneficial occupation of any of the dwellings hereby approved.

Reason:

To improve local highway infrastructure within the vicinity of the site and to improve highway safety on the local highway network in accordance with policy MD2 of the Development Plan.

44. Notwithstanding the submitted details, prior to the commencement of any construction works or development on any phase as agreed by condition 1 of this permission (or part thereof, full Engineering details (including design calculations) of the works to facilitate access to the development from Lavernock Road inclusive, but not limited to, visibility splays (x distance 4.5m), toucan crossing facility, shared footway/cycleways street lighting, highway drainage, bus stop facilities, and any associated highway retaining structures within the vicinity of the site, shall have been submitted and approved by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.

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'.

45. 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, full Engineering details (including design calculations) 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'.

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) a wildlife/biodiversity habitat protection, enhancement and management plan for that phase for each species/species group identified within the submissions including Chapter 8 of the Environmental Statement, 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.

47. 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.

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'; SP3 'Residential Requirement'; SP4 – Affordable Housing Provision; SP7 'Transportation'; SP9 'Minerals'; SP10 'Built and Natural Environment' SP11 'Tourism and Leisure'; MG1 'Housing Supply in the Vale of Glamorgan'; MG2 'Housing Allocations'; MG4 'Affordable Housing'; MG6 'Provision of Educational Facilities'; MG7 'Provision of Community Facilities'; MG18 'Green Wedges'; 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'; MG24 'Dormant Mineral Sites'; MG28 'Public Open Space Allocations'; MD1 'Location of New Development'; MD2 'Design of New Development'; MD3 'Provision for Open Space'; MD4 'Community Infrastructure and Planning Obligations'; MD5 'Development within Settlement Boundaries'; MD6 'Housing Densities'; MD7 'Environmental Protection'; MD8 'Historic Environment'; MD9 'Promoting Biodiversity'; MD11 'Conversion and Renovation of Rural Buildings' it is considered that the proposals are considered to be acceptable with regard to principle; density; visual and landscape impact; impact upon the historic environment; design and layout; highways issues; impact upon residential amenity of residents of existing neighbouring properties; amenity of future occupiers of the site; drainage and flood risk; ecological impacts (including trees and hedgerow); mineral safeguarding and dormant quarries and the provision of S106 Planning Obligations.

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. **The contamination assessments and the affects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for**
 - (i) **determining the extent and effects of such constraints;**
 - (ii) **ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site;**
 - **Unprocessed / unsorted demolition wastes.**
 - **Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.**
 - **Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and**
 - (iii) **the safe development and secure occupancy of the site rests with the developer.**

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land. The Local Planning Authority has determined the application on the basis of the information

- 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. The attention of the applicant is drawn to the fact that a public sewer runs through the site and may be affected by the development.**
- 4. Dwr Cymru Welsh Water (DCWW) have advised that some public sewers and lateral drains may not be recorded on their maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. The applicant may contact Dwr Cymru Welsh Water on 0800 917 2652 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.**
- 5. The proposed development site is crossed by a public sewer. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line. For details of the safety zone please contact Dwr Cymru Welsh Water's Network Development Consultants on 0800 9172652.**
- 6. The applicants are advised that all necessary consents / licences must be obtained from Natural Resources Wales (formerly Environment Agency Wales) prior to commencing any site works. The Natural Resources Wales, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP General enquiries: telephone 0300 065 3000 (Mon-Fri, 8am - 6pm).**
- 7. Where the work involves the creation of, or alteration to, an access to a highway the applicant must ensure that all works comply with the appropriate standards of the Council as Highway Authority. For details of the relevant standards contact the Visible Services Division, The Vale of Glamorgan Council, The Alps, Wenvoe, Nr. Cardiff. CF5 6AA. Telephone 02920 673051.**
- 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. 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.**
- 10. You should note that the building / site may constitute a breeding or resting place (roost) for bats, both of which are protected by law through UK legislation under the Wildlife and Countryside Act (1981) (as amended) and through European legislation under the Habitats Directive (EC Directive 92/43/EC), enacted in the UK through the Conservation Regulations (1994) (as amended). This legislation makes it an absolute offence to either damage or destroy a breeding or resting place (roost), to obstruct access to a roost site used by bats for protection and shelter, (whether bats are present at the time or not) or to intentionally or recklessly disturb a bat/bats within a roost. It is recommended that a full bat survey of the building/ site (including trees) be conducted by a licensed bat surveyor to ascertain presence or absence of bats/bat roosts. In the event that the survey reveals the presence of bats/roosts, further advice must be sought from Natural Resources Wales on 0300 065 3000 or the Council's Ecology Section on 01446 704855.**
- 11. 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 at <https://naturalresources.wales/conservation-biodiversity-and-wildlife/european-protected-species/?lang=en>**
- 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 attention of the applicant is brought to the fact that a public right of way is affected by the proposal. The grant of planning permission does not entitle one to obstruct, stop or divert a public right of way. Development, in so far as it affects a right of way, must not be commenced until the necessary legal procedures have been completed and confirmed for the diversion or extinguishment of the right of way.**

- 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.**

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.

2023/00032/FUL Received on 27 January 2023

APPLICANT: Biomass UK No.2 Limited -, -,

AGENT: Mr Philip Murphy 21 Soho Square, London, W1D 3QP

Barry Biomass Renewable Energy Facility, David Davies Road, Barry

Retrospective full planning permission for development comprising a wood fired renewable energy plant and associated structures without complying with Condition 5 (Drawings) attached to planning permission 2015/00031/OUT

REASON FOR COMMITTEE DETERMINATION

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application has been called in for determination by Cllr I Johnson, citing the widespread public interest.

EXECUTIVE SUMMARY

The site is accessed from David Davies Road and is also adjacent to Woodham Road, at Barry Docks. It is occupied by an energy recovery facility described as the Barry Biomass plant, which comprises the three main buildings on the site, together with associated structures, infrastructure and hardstanding. It was occupied prior to that by a container storage and refurbishment operation. Vehicular access to the site is from Ffordd-y-Milleniwm, via Cory Way.

The planning application is made under s.73a of the Town and Country Planning Act (1990) and seeks to retrospectively amend Condition 5 (drawings) of planning permission reference 2015/00031/OUT, to regularise discrepancies between the approved plans and the constructed development. The discrepancies relate to ancillary structures, minor alterations, and associated layout changes. It is an EIA planning application and accompanied by an Environmental Statement and several technical reports.

There were approximately 100 representations received, all objecting to the proposals. There have also been representations from Jane Hutt MS, Cllrs P Drake, E Goodjohn, C Iannucci, G Ball, E Davies-Powell, H Payne, E Goodjohn, B Loveluck-Edwards, S Thomas and Barry Town Council objecting to the proposals. In addition, several representations have been received from local groups Friends of the Earth and Docks Incinerator Action Group (DIAG) objecting to the proposals. The reasons for objection are wide ranging but among the most prevalent are concerns over air pollution, health, and climate impact. The wide range of concerns have been summarised in the Consultations section and Representations section of this report.

Having considered the above and having regard to all the submitted environmental information in accordance with Section 25(1) of the 2017 EIA Regulations, the application is recommended for APPROVAL subject to conditions.

SITE AND CONTEXT

The site is accessed from David Davies Road and is also adjacent to Woodham Road, at Barry Docks. It is occupied by an energy recovery facility described as the Barry Biomass plant, which is designed to produce electricity for export from pre-processed waste wood

fuel. The facility comprises the three main buildings on the site, together with associated structures, infrastructure and hardstanding. It was occupied prior to that by a container storage and refurbishment operation. Vehicular access to the site is from Ffordd-y-Milleniwm, via Cory Way.

The site is immediately adjacent to a haulage operator to the east, a row of Nissen hut style buildings to the west, Ffordd y Mileniwm lies to the north and Dock No.2 to the south. The wider Barry Docks area comprises a mix of industrial and commercial uses.

There are also residential areas nearby off Dock View Road (approx. 230m to the northwest) and there is a new residential development under construction off David Davies Road/ Cory Way (East Quay) located to the west.

The facility occupies the site area as shown on the location plan accompanying the Environmental Statement, as shown on the plan and aerial photo extracts below.





The overall facility occupies a greater site area than the planning permission 2015/00031/OUT, as additional areas of land are incorporated into the site north of it and at the south eastern corner. This application is for an amendment to the planning permission and so relates only to the original site area, as shown in greater detail below. A separate application relates to the area of land to the north.

DESCRIPTION OF DEVELOPMENT

The application is for Retrospective full planning permission for development comprising a wood fired renewable energy plant and associated structures without complying with Condition 5 (Drawings) attached to planning permission 2015/00031/OUT

The planning application is made under s.73a of the Town and Country Planning Act (1990) and seeks to retrospectively amend Condition 5 (drawings) of planning permission reference 2015/00031/OUT, to regularise discrepancies between the approved plans and the constructed development.

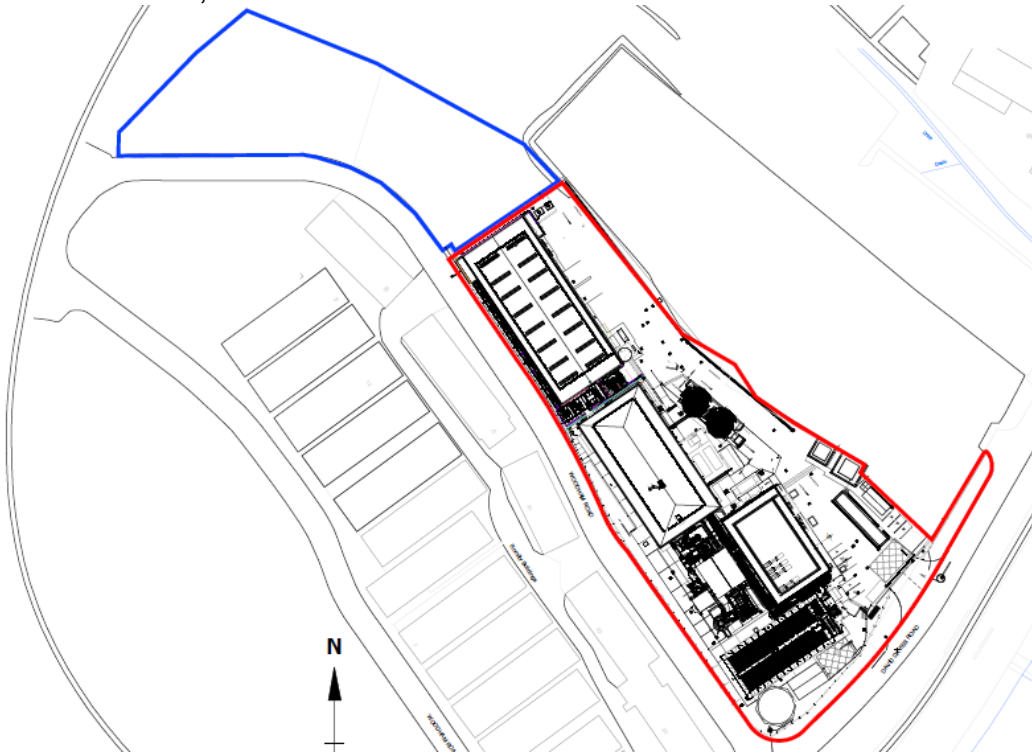
There are a number of additional structures or alterations to the approved plans for which consent is now sought including:-

- Lean-to Fuel Reception Building;
- Lean-to Compressor House;
- Urea Silo;
- Discharge Incline Conveyor;
- Screening Tower and Dust Extraction;
- Emergency Diesel Generator and Tank;
- Fire Kiosk;
- Fire Water Tank and Pump House; and
- Amendment to stack width

- An enlargement noise attenuator to the ID Fan enclosure located at the base of the chimney stack.

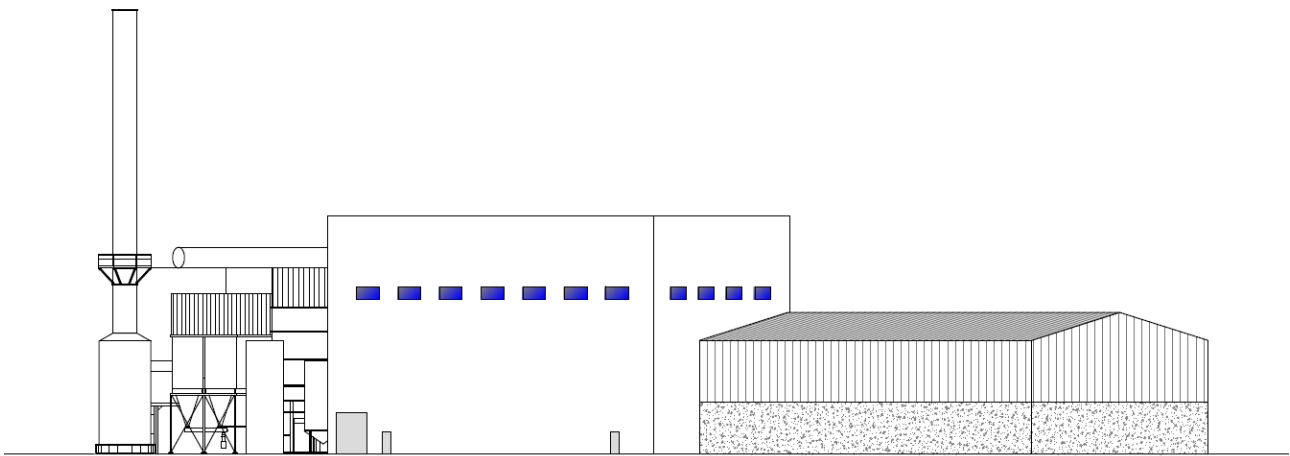
The submissions update the environmental and technical assessments in full, with reference to the as-built development.

The application relates to the area of the original site area of planning application 2015/00031/OUT, as shown below:



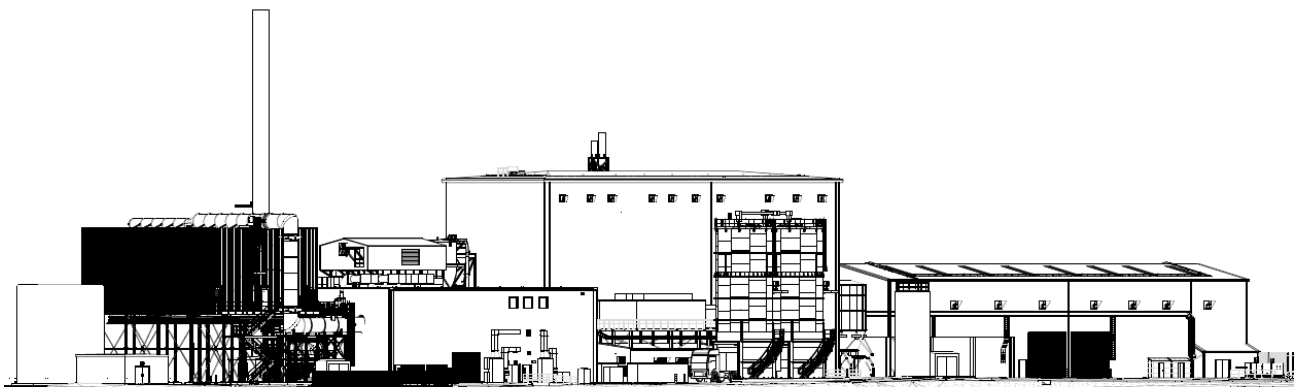
The submitted plans also seek to resolve the issue that the approved elevation plans are a 'mirror image' of the layout plans of the development.

Elevation as approved:



SECTION C-C

Elevation as proposed:



SECTION B-B

The Environmental Statement

The application is accompanied by an Environmental Statement (ES) and technical documents.

The ES considers the topics of **Climate Change and Greenhouse Gases** (Chapter 7), **Noise and Vibration** (Chapter 8), **Air Quality** (Chapter 9), and **Population and Human Health** (Chapter 10), and contains a **Landscape and Visual Impact Assessment** in Volume II. It also considers Alternatives (Chapter 4), Construction and Decommissioning (Chapter 5), discusses the Effects Interactions (Chapter 11) and provides a Summary of Mitigation Measures, Monitoring, and Likely Residual Effects (Chapter 12).

There are several other technical documents that have been submitted which are appended to the ES. Among those relevant are:-

- Materials and Waste Technical Note (Appendix 3.16)
- Flood Risk and Drainage Technical Note (May 2023) (Appendix 3.14)
- Ecology Technical Note (Appendix 3.11) & Habitats Regulations Assessment Screening (Appendix 3.12)
- Archaeological Desk-Based Assessment (Appendix 3.7)
- Built Heritage Statement (Appendix 3.8)
- Socio-Economics Statement (Appendix 3.9)
- Transport Technical Note (Appendix 3.10)
- Ground Conditions Technical Report (Appendix 3.13)
- Major Accidents and Disasters Technical Report (Appendix 3.15)
- Lighting Design Scheme (Appendix 5.4)
- Human Health Risk Assessment (Appendix 9.8), Health Impact Assessment (Appendix 10.1)

The EIA considers the whole facility, including areas to the north (subject to planning application 2023/00033/FUL) but also an additional land at the south eastern side of the site, which contains a hardstanding, containers, and parking spaces.



PLANNING HISTORY

1984/00348/FUL, Address: Woodham Road, No. 2 Dock, Barry Docks, Barry, Proposal: Proposed fenced off compound for the purpose of storage and distribution of solid fuel, Decision: Approved

1985/00215/FUL, Address: Fisher Containers Limited, No. 2 Dock, Barry Docks, Barry, Proposal: New extension to be used as storage facilities, Decision: Approved

1985/00574/FUL, Address: Woodham Road, North Side, No. 2 Dock, Barry, Proposal: The land will be enclosed by a security fence and used for the storage of car trailers, such as touring caravans, boats etc., Decision: Approved

1987/00821/FUL, Address: Woodham Way, Barry Docks, Proposal: Construction of plant store, Decision: Approved

1994/00222/FUL, Address: Fisher Containers; Partners, David Davies Road, Barry Dock, Barry, Proposal: Erection of extension to existing steel framed building for use as timber drying store, no external works are proposed, Decision: Approved

2008/00828/SC1, Address: Land at Woodham Road, Barry Docks, Proposal: Proposed industrial building and installation of 9MW Biomass Gasification Plant to generate electricity from reclaimed timber, Decision: Environmental Impact Assessment (Screening) - Not Required

2008/01203/FUL, Address: Land at Woodham Road, Barry, Proposal: Erection of new industrial building and installation of 9MW fuelled renewable energy plant, Decision: Appeal Allowed.

2010/00240/FUL, Address: Land off Woodham Road, Barry, Proposal: Erection of new industrial building and installation of 9MW wood fuelled renewable energy plant, Decision: Withdrawn

2014/01065/NMA, Address: Land at Woodham Road, Barry, Proposal: Modification to Sunrise Renewables planning permission 2008/01203/FUL, Decision: Withdrawn

2015/00031/1/CD, Address: David Davies Road, Woodham Road, Barry, Proposal: Discharge of Conditions 6-Waste Handling, 7-Sample of Material handling, 8-Site Contaminations, 10-Means of enclosure, 28-CEMP, Decision: Approved

2015/00031/1/NMA, Address: Barry Biomass Renewable Energy Facility, David Davies Road, Barry. Proposal: Non-material amendment - addition of 1) Lean-to structure adjacent to the Fuel Reception Building, 2) Emergency Diesel Generator and Tank and 3) Fire Kiosk. Planning approval 2015/00031/OUT for a wood fired renewable energy plant. Decision: Not finalised.

2015/00031/2/CD, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Discharge of Condition 13-Sustainable Drainage. Outline application for a wood fired renewable energy plant at David Davies Road, Woodham Road, Barry, Decision: Withdrawn

2015/00031/3/CD, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Discharge of Conditions 11, 12, 20 and 29. Outline application for a wood fired renewable energy plant at David Davies Road, Woodham Road, Barry, Decision: Withdrawn

2015/00031/4/CD, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Discharge of Condition 17. Outline application for a wood fired renewable energy plant at David Davies Road, Woodham Road, Barry, Decision: Withdrawn

2015/00031/5/CD, Address: Barry Biomass Energy Centre, Barry Docks, Woodham Road, Barry, Proposal: Conditions 5, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 25; 29 of Planning Application 2015/00031/OUT: Outline application for a wood fired renewable energy plant, Decision: Subject to outstanding non-determination appeal.

2015/00031/OUT, Address: David Davies Road, Woodham Road, Barry, Proposal: Outline application for a wood fired renewable energy plant, Decision: Approved

2015/00655/FUL, Address: Land off Woodham Road, Barry, Proposal: Erection of a new industrial building and the installation of a 9mw wood fuelled renewable energy plant, Decision: Withdrawn

2016/00187/RES, Address: Biomass UK No. 2 Limited, David Davies Road, Woodham Road, Barry, Proposal: Approval of the landscaping of the development condition 1 of the outline 2015/00031/OUT, Decision: Approved

2016/00457/FUL, Address: David Davies Road, Barry, Proposal: Erection of CCTV camera - 6m high lattice structure, Decision: Approved

2017/00262/FUL, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Erection of the following site services, plant and machinery: (1) Reception Building Conveyor Cover; (2) Reception Building Power Packs; (3) Reception Building Conveyor Cover; (4) Reception Building Conveyor Screening Tower Structure; (5) Fire System Control Kiosks x 6; (6) Fire Water Tank; (7) Fire Water Pump House; (8) ACC Ancillary Equipment Structure; (9) Emergency Generator; (10) Diesel Tank and (11) Process Building Plant Room With Ancillary Air Blast Coolers, Decision: Withdrawn.

2017/01080/FUL, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Variation to condition 5 of planning permission 2015/00031/OUT to include fire tank and building as well as relocation of parking, Decision: Withdrawn.

2021/00695/FUL, Address: Barry Biomass Facility, David Davies Road, Barry, Proposal: A retrospective (S73A) planning permission for the erection and use of a cylindrical fire water tank at its biomass fired renewable energy generation facility at the Barry Docks, Decision: Not Finalised.

CONSULTATIONS

Jane Hutt MS corresponded on behalf of constituents and queried delays in publishing information on the planning register. The following questions from constituents were asked:

On 17th October 2023:-

“the Environmental Statement and further information requested by the local authority has to cover all relevant (material) environmental matters. There's no doubt that "net-zero" and the ability of the plans to meet WGovt policy on it come under that. We obtained a WGovt response that this has to apply to incinerators (attached), which the VoG posted on file in July..

The company has not responded and is unlikely to unless the VoG requires it (under EIA Reg 24), as they pressed in July for the Council to proceed to determination in July that no further issues had come up.

You would realise that it's not an easy issue, for it requires the company to specify the measures they plan to extract (CCS) from the emitted gases the immense ~150 000 tonnes CO2 per year that they propose to discharge to the atmosphere, or otherwise measures to offset them. You might have expected NRW to flag up this issue, but their response in March did not (it covered only the flooding issue in addition approving the rest in their response to PEDW). Policy has developed, but it appears NRW won't add "net-zero" to their issues until the Minister instructs them to do so.”

On 26th October 2023:-

“The Vale Council has the responsibility to ensure the relevant information on mitigation of CO2 is covered via the EIA process. The Planning Committee could not impose a planning condition until they know if it's feasible for the Barry Biomass incinerator to comply with net-zero. It's likely to require extra physical infrastructure on which there would be planning constraints.

Whether or not it is feasible, the potential for mitigation of the CO2 emissions has to be added to the Environmental Statement. The Welsh Government letter makes it clear that net-zero requirement applies to CO2 emissions, not those offset by some accounting process. Total CO2 emissions are required under the EIA Regs, while Aviva-Biomass give just their disputed carbon-negative calculations and say only they will "explore" using the waste heat and CCS technology in future.

The is whether mitigation towards net-zero is achievable on this site with this plant. Would you therefore press the Council to ask the company for this EIA-necessary information. To give the issue the importance it requires, they could seek the necessary information formally, via a EIA Reg.24 Notice?”

Cllr P Drake objected and believed it should be brought before Planning Committee.

Cllrs E Goodjohn, C Iannucci, G Ball, E Davies-Powell and H Payne (Cadoc Ward) submitted a joint statement stating planning permission should not be granted. The statement considered several topics, summarised below:-

- Ground Conditions – questioned rationale for scoping topic out of the ES.
- Construction emissions – questioned use of approximate distances rather than site data for trip distance estimations (av. 300km HGV and 50km staff).
- Energy offset – states facility energy output is poor compared to current renewables. Offset calculation does not consider when the plant ceases power.

- Noise impact – agree with finding of minor adverse effect but questions whether mitigation measures will be sufficient to protect amenity of residents.
- Air quality – agree with findings inc. Nitrogen Dioxide increase of 3.5-6% for most receptors, dioxin and furan increases of 1-10%, abnormal chromium VI levels also found but not considered to be due to the facility. Mitigation measures good but still decreases are found in air quality.
- Population and human health – noted above, however perceived risk considerably underestimated noting the background of the site, planning history, and actions of the operator - and effects upon the population are cumulative.
- Landscape and visual impact – disagree with conclusions, it conflicts with new housing constructed nearby, and it out of line with the other industrial buildings in the area.

The principal concerns expressed in the letter were that there was no guarantee that the carbon emissions would be offset from energy production once operational, as the planning permission is not time limited and, moreover, the adverse impacts to the neighbouring population is not outweighed by the benefits. In addition, they considered that the 2015 planning permission is not an appropriate decision due to the (lack of an) Environmental Statement and the changes planning policy and in the energy sector since then.

Cllr Ewan Goodjohn also wrote separately objecting to the proposals, referencing the above statement.

Cllrs E Goodjohn, B Loveluck-Edwards & S Thomas (Dyfan Ward) submitted a joint statement stating planning permission should not be allowed to operate. The statement considered several topics, summarised below:-

- Soil Quality – questioned the scope of the assessment and lack of intrusive site survey data / data on nature of subsoils.
- Emissions/ pollution – 25 year assessment lifespan is estimated, conflicts with VoGC commitment to net zero by 2050, and WG/UK Gov commitments to the same.
- Negative impacts – states the benefit (contrasting negatively to single wind turbine in terms of generation capacity and low job creation) but does not outweigh the negative impacts to the local population.
- Environmental/ economic impact – uses an oil fuel burner to bring the facility up/ keep it to temperature (how often/much?) brought to the site via HGV.
- Traffic generation – unwelcome increase in HGV traffic on Cardiff Road.
- Estimation of impacts – large amount of data is based on estimation despite similar facilities operating elsewhere (bbc panorama).
- Visual impact – plant is an eyesore and not in keeping with the site and its surroundings.
- Concern over best practices – not providing ES in the past, details changed (use of diesel generator), increased stack size, non-compliance with approved plans.

Cllr Emma J Goodjohn also wrote separately objecting to the proposals, citing the above joint statement.

Cllr I Johnson queried the purpose of the application and procedural matters on behalf of residents and requested that it called-in to the Planning Committee because of the widespread public interest.

The Baruc, Castleland, Cadoc, Court, Dyfan, Illtyd, and Gibbonstown Ward Councillors were all consulted during the course of this application. The responses received to date have been summarised above.

Barry Town Council stated a strong objection and wished to re-iterate its previous observations of objection. They also requested that the Vale decline to determine the application for planning permission as an enforcement notice had been issued before the application was submitted (section 70C of the Town and Country Planning Act 1990).

In a subsequent response on 10th November 2023 they stated that following the decision to quash the Enforcement Notice they wished to reiterate their objections to the applications and use of the site for its current purpose as a whole. Their most pressing concerns were:-

Soil quality – there is hardly any reference or data regarding the subsoil in the Environmental Statement (ES). No sample core drills have been taken, despite asbestos contaminated soil being found during construction and taken to landfill. The area has a history of use by heavy industry.

Visual amenity – the plant is not aesthetically pleasing and is seen prominently and concerns were held regarding the wellbeing of the community occupying the new homes nearby. The Biomass is incongruous, towers over adjacent units and is out of place and not in keeping with the area.

Emissions/ Pollution – the plants 25 year lifespan is an estimate and it may go on producing emissions for many years after. It conflicts with the Vale of Glamorgan commitment to net zero by 2050. Offsetting these emissions would not prevent contamination and local air pollution. NRW has agreed their figure of 130,000 tonnes and Friends of the Earth put it at 160,000 tonnes.

Negative/ Nil impact – the levels of energy produced are very low in comparison to the cost, fear, stress and controversy. More energy can be produced by cheaper renewable resources, such as a single modern wind turbine.

Increased HGV Traffic on Cardiff Road, which is already busy.

Job creation – the low job creation is not an acceptable trade-off.

Estimation based content – a large amount of the Environmental Statement is based on estimation even though similar facilities exist. A recent BBC Panorama program has highly brought into question the environmental credibility of these facilities. There is no plan to reduce emissions during the lifetime of the plant. Data in the public domain demonstrates the amount of diesel consumed in other incinerators operated by the parent company, and this should be included in relation to human health and GHG.

Concern over best practice – not providing ES in the past, many details changed such as use of generator, increased chimney stack size, not following agreed planning and lack of solid data.

Noise assessment – there is no noise assessment relevant to the commercial businesses on Woodham Road. Queries are raised whether new residential buildings within 100m have been included. The noise analysis does not include the external conveyor. Relevant data from identical incinerators have not been released. ES noise reports do not take any or sufficient cognisance of wind direction.

Flood Risk and Surface Water Drainage – there is no flood consequences analysis. The attenuation tanks were calculated on the basis of the original site area and will not be sufficient to take water from the turning area and are further north. It is not SuDS compliant. Town water is wasted, rainwater not collected. It does not comply with TAN15.

Health and Safety – there is no report for the potential of accidents, it relies on the developers assertions they do not intent to have any. The ES fails to produce a health impact assessment.

Moratorium – there is one in place announced by Welsh Government against new incinerator projects but LPA have not taken this into account.

Civil Aviation Authority – no response received to date.

VoGC Highway Authority – stated no objection, subject to the parking and turning areas being laid out in accordance with drawings BRBM-HMA-ZZ-ZZ-DR-A-P300 Rev P01 and BRBM-HMA-ZZ-ZZ-DR-A-P200 Rev P01.

South Wales Fire and Rescue Service stated no objection, and advised that planning authorities should adopt a precautionary approach of positive avoidance in areas of flood risk, consider climate change and risk of wildfires. They also provided standing advice that the developer should consider the need for provision of adequate water supplies and access for emergency vehicles.

VoGC Drainage Engineer initially requested MicroDrainage outputs and clarification as to the differences between the as-built drainage drawing in this application and a past version were provided, as well as an explanation of the difference between both the cover and invert levels shown in these plans. On receipt of this information, a further request seeking either justification for the modelling approach or that a more conservative approach was taken to modelling factors such as the rainfall volumes and the percentile of runoff entering the drainage system.

In response to this, there was further justification submitted by the applicant together with the results of a revised MicroDrainage modelling exercise. In the latest response dated 8.12.23, the VoGC Drainage Engineer stated that they found the the drainage details acceptable in principle and had no further comment to make. They also advised that they were in acceptance that the constructed development would not be subject to Schedule 3 of the Flood and Water Management Act (i.e. not require SAB approval).

Shared Regulatory Services (Neighbourhood Services) have noted in their responses that the Environmental Statement (ES) identified rating levels higher than those predicted in the AB Acoustics report accompanying the original 2015 application, and, that it would have an adverse impact of moderate significance on residential receptors at Cory Way and East Quay (worst affected +6dBA and +7dBA). They also noted that the ES details the further mitigation in ES Vol III Appendix 8.6 that is required to reduce the significance of the effect and impact to the worst affected receptors to +1dBA and +4dBA, which is 'sub-adverse' in relation to estimated impact.

In their initial response dated 6th March 2023, they stated that SRS usually request noise levels from commercial/ industrial use achieve below-background levels at nearest residential receptors because it lessens the likelihood of an adverse impact and reduces the risk of background creep, with a difference of +5dB being described in BS4142 as being a likely indication of an adverse impact. It was also requested that subsequent plans for testing of the collection chain conveyor, along with any further mitigation that might be needed to demonstrate compliance with their proposed condition, were provided because the acoustic compliance testing has not been conducted with it carrying biomass material.

A further response dated 5th September 2023 states that, following submission of an explanatory note (ref: Q220002 dated 31.07.23) by the applicant, their queries had been addressed and, taking into account the nature of the area, the noise management approach agreed with Natural Resources Wales, and the standards contained in BS41412, planning conditions were recommended that required implementation of the noise mitigation measures prior to operation of the plant and post installation modelling (with requirements for further mitigation if identified).. Planning conditions were also recommended in the event of further works at the site (such as to implement the mitigation measures), relation to a mitigation scheme to control dust, noise, and vibration, working hours, control of waste burning, and security lighting and generators. It was also recommended that condition 12 was amended to secure site lighting accorded with the submitted details.

It was also confirmed by SRS that they were content with the noise modelling and analysis in relation to commercial receptors, including the Units on Woodham Road.

Cardiff Airport (Safeguarding) – no response received to date.

Cadw (Ancient Monuments) stated no objection and concurred with the view expressed in the submitted Built Heritage Statement; that there would be no impact on the setting of scheduled monument *GM310 Round Barrow 612 N of Bendrick Rock*.

Dwr Cymru / Welsh Water stated that capacity exists within the public sewerage network to receive domestic foul only flows from the development site.

In relation to surface water, they stated that surface water should be discharged by sustainable means, and referenced the Welsh Government '*Statutory standards for sustainable drainage systems – designing, constructing, operating and maintaining surface water drainage systems*' and the four levels of sustainable surface water disposal methods outlined in a hierarchal approach (including rain water harvesting, infiltration, watercourses & surface water sewer / highway drain).

They recommended that more sustainable options available for the disposal of surface water were sought and stated that they would not consider a connection of surface water to the public combined sewer, and stated there is no agreement in place to communicate surface water flows into a combined sewer. Therefore, they requested a planning condition (**see Condition 7**) that would prohibit the discharge of surface water to the combined sewer.

Advisory notes were also provided relating to the discharge of trade effluent and Discharge Consent required under the Water Industry Act 1991, the need to consider water efficiency and requirements of the LA Building Regulations department, the requirements of the Water Industry Act in relation to new drainage connections and related design standards, as well as matters relating to drainage asset protection.

Cadw (Ancient Monuments) stated no objection and concurred with the conclusions of the Built Heritage Statement provided, which considers that the proposed development forms no part of the scheduled monument's (GM310 Round Barrow 612 N of Bendrick Rock) setting.

VoGC Civil Protection Unit stated that they did not usually comment on these kind of applications and that NRW or the Council's Drainage team were best placed for any potential flood issues.

Natural Resources Wales stated that their concerns in relation to flood risk could be overcome by attaching a planning condition to the consent that secured finished floor levels (were set in accordance with Table 3-1 of Technical Note ref: 407.13039.00002 (**see Condition 6**))

In their initial response dated 21st March 2023, they noted that the application proposed the retention of highly vulnerable development partially within DAM Zone C2 and partially within FMfP Flood Zone 2 & 3 Sea (Tidal) and provided a technical assessment on flood risk. In summary, they advised that the Technical Note/FCA dated July 2022 demonstrates the proposal meets the requirements of A1.14 of TAN15, the buildings are within the tolerable limits of depths of flood water as set out in A1.15, and in terms of A1.12 and flood risk elsewhere, that there would be minor displacement of flood waters and no impact beyond the site boundary.

They also advised that Welsh Government guidance assumes a Lifetime of Development (LoD) of 75 years for the purposes of assessing this type of development (whereas an LoD of 25 years had been used in the information presented).

A revised Technical Note/FCA dated May 2023 was submitted, which considered both the 25 and 75 LoD scenarios. In NRW's response dated 21st July 2023, they noted that it had been demonstrated that the FFL of the Turbine Hall, Main Process Building and Wood Processing Warehouse were all set above the 0.5% Climate Change Adjusted (CCA) flood level and it showed that the risks and consequences could be managed to an acceptable level. They noted that the 0.1% CCA event was also within the tolerable limits of A1.15 of TAN15 (less than 1000mm), but that there was no assessment against its remaining criteria.

It was also recommended that other professional advisors were consulted in relation to emergency plans, procedures, and measures to address structural damage that may result from flooding.

A further response dated 14th September 2023 referred to their previous advice and stated they had no further comments to make.

Shared Regulatory Services (Environment – Air Quality) stated that following implementation of measures listed in the Air Quality Assessment (AQA), the residual effect of dust and emissions during construction would have been negligible.

In relation to operational phase impacts, it was noted that dispersion modelling has been carried out to assess the process contributions and predicted environmental concentrations of various pollutants on various human and ecological receptors in the local area. It was also noted that the assessment states monitoring of pollutant concentrations within the exhaust from the stack will be undertaken on a regular basis in accordance with the requirements of the Permit granted by NRW, that the site is subject of monitoring and several management plans, and an environmental management system is in place which accords with international standards.

It was stated that the concentrations of pollutants likely to be emitted would be below the relevant air quality standards set for human health at all modelled receptors. It was noted that a Human Health Risk Assessment has also been undertaken which confirms that the exposure of individuals to pollutants, even in a very worst case scenario, would not be significant during normal or abnormal operating conditions. It was stated that SRS agree with the findings of the operational assessment, and that results demonstrate that the likely impact on local air quality would be negligible and no mitigation would be required.

Environmental Public Health Service Wales stated that in their view, any environmental impacts should be controlled by the appropriate planning and environmental permitting conditions and providing the facility is properly run, managed, and regulated, the impact on public health should be minimal.

VoGC Ecologist did not object and commented that the record of rough marshmallow dated from 1991 and has not been recorded since, and must be presumed to be absent.

Docks Incinerator Action Group (DIAG) have submitted several representations and items of correspondence, which primarily question procedural matters, inaccuracies and deficiencies in the submission documents, and provide commentary on the merits of the proposals. These have been summarised below:-

- The application should be rejected (outright) because it is DNS (having a design capacity of over 11Mw).
- The expert reports provided by the applicant are not properly endorsed, and some contain disclaimers or caveats that undermine the independence and objectivity of their content.
- Appeal Statement of Common Ground: Questioned independence of Vale of Glamorgan Council and lack of disclosure of records relating to its production/ agreement, fails to acknowledge incineration, previous decisions/ approvals were unlawful, and the statement goes beyond its scope by dealing with non-factual information, a lack of engagement with other stakeholders.
- The ES has not been produced in accordance with the Wellbeing of Future Generations (Wales) Act 2015.
- The previous planning permissions (2010 & 2015) are unlawful: the failure to carry out EIA was contrary to the Regulation 3 of the EIA Regulations (which prohibited the grant of planning permission for EIA development without undertaking EIA).
- The development is not renewable as defined by the United Nations (energy derived from a natural sources that are replenished at a higher rate than they are consumed). Bioenergy is associated with negative environmental impacts related to large-scale increases in plantations, deforestation, and land-use changes.
- There is not enough fuel in South Wales to feed the incinerator and the site appears to have been chosen due its proximity to port facilities. This may result in the importation of waste from a distance, by sea. Incinerating recyclable material takes the material out of the recycling chain, releasing carbon, putting jobs at risk at sites such as Kronospan who use reclaimed wood in their products, contrary to the waste hierarchy. This is contrary to the proximity principle of dealing with waste as close as possible to where it arises (TAN 21 refers). Sister plants in Boston and Hull have converted to refuse derived fuel.
- Waste wood may not go to landfill as disposal is being phased out and it could be recycled rather than being used as fuel. Landfill also results in much slower release of greenhouse gases than the instant release through gasification.
- The Plume Plotter for Barry demonstrates that the plume is likely to impact all parts of Barry, using the same source material relied upon in the planning application.
- The stack height is too short, meaning the plume will drop onto urban areas. The stack has been designed to comply with IED (Industrial Emissions Directive) rather than optimised for human health. Local topography has not been accounted for including the swirling winds and tendency to inversions seen in Barry and the Docks basin. The correct diameter of the stack has not been confirmed and accounted for in the calculations. There has been no attempt to investigate how long receptors might be subjected to full pollution from the plume. Modelled plume effects from previous reports have been omitted in the ES.
- The ES fails to take into account local topography and conditions, including swirling winds and tendency to inversions seen in Barry and in the Docks basin. Downwash effects (height of housing compared to the stack) usually 30-40% of the emission height is questionable. Use of Defra background pollutant maps for Particulate Matter (PM2.5) is not appropriate as they include non-industrial and non-urban areas and so are either an average or a minimum. The background figure is nevertheless already 60% over the WHO guidelines (should not exceed 5 ug/m³).
- Pollutants released into the atmosphere: asbestos, cadmium, lead compounds have been identified at Pyrolysis plant locations. The source material could derive from various sources and may contain asbestos, carbon-based preservatives, paint

chemicals, copper and it would not be economically viable to comprehensively test all fuel prior to use. The temperature variations inherent in the stop-go process from variable fuel feed consistency means there is a risk of dioxin generation.

- No research or testing has been carried out to assess the potentially fatal chemical reactions that will occur from cross contamination with chemical releases from the Dow Corning and Hexion sites.
- The EIA requirement to consider Best Available Technologies has not been met, as the appellant has stated the facility has been designed only to meet legal requirements and would only be adapted if these changed.
- It is not understood how the facility has been designed with the capacity to retrofit Carbon Capture and Storage (CCS) technologies when the technology is yet to be perfected and it has been rejected as financially unviable.
- Inconsistent with COP26 declarations (climate change).
- The IEMA advice was to include in the EIA process a timetable for greenhouse gas reductions to meet reduction targets (not done).
- Not all emissions are cleaned or filtered as claimed on the developer's website and the ES accepts pollutants escape with the plume.
- The local demographics, being an area of high deprivation with a higher likelihood of pre-existing illnesses (such as breathing problems) have not been accounted for. There has been no attempt to investigate the impacts on vulnerable people, those with health conditions, or upon health services. Appendix 10.1 – the detrimental impact is brushed off as affecting a small number of people within a large populace. Risk perception not adequately dealt with as residents and health practitioners have not been consulted.
- No obvious regard paid to the UN Convention on the Rights of a Child.
- There should be effort made to engage children and young people in the EIA process.
- Appendix 10.1 Health Risk Assessment is optimistic/improbable.
- Various important matters are scoped out of the ES without agreement of PEDW.
- The non-technical summary does not comply with IEMA guidance as it is too complex, directs readers to other parts of the document, and is partisan.
- There has been a moratorium on 10Mw+ energy from waste plants brought in by Welsh Government, who also state that any new small scale facilities should only be allowable if the applicant can demonstrate a need, and these must also supply heat, and where feasible, be carbon capture and storage enabled and ready.
- ES does not consider tourism and socio-economic impact (Barry is a tourist destination).
- Risk of accidents not properly considered, noting the facility produces high pressure steam and presumably the syngas is also held under pressure. That is susceptible to build up when problems occur and it is understood there is no venting mechanism and vent stack. The latter would release toxic plumes.
- The applicant has not submitted anything under DSEAR (Dangerous Substances & Explosives Act) and compliance with the act cannot be assumed. The incinerator is in a dangerous position in the dock area, where ships carrying COMAH material pass close by and the owners need to show that the COMAH arrangements are fully up to date and take account of the additional domino effect. There is no plan to deal with a major incident.
- Problems occurred during testing in March 2018 which resulted in breaches of the permit and the problem was not rectified for some time.
- Fire Prevention and Management Plan (NRW permit) digresses from standards laid out in NRW Guidance Note 16, primarily due to a lack of quarantine space, water

- supply tank not large enough to cope with worst case scenario fire, water collection facilities not a sufficient size to deal with the amount of waste water from a serious fire, the building is not designed to accommodate compliance with minimum waste material stack sizes and separation distances, and the compensatory measures (a sprinkler system) within are not sufficient to mitigate the risk – resulting in increased risk of fire spreading quickly in the building and danger to firefighters tackling a fire, as well as a failure to dispose of the firewater without polluting the environment.
- The development is classed as highly vulnerable and TAN15 states this type development should not be located in the floodplain.
 - The flood assessment work fails to include the flood levels used for the housing development to the south west (8.67AOD).
 - There appears to be no discussion of the potential consequences of flooding (Section 7 TAN15) including the risk of accidents.
 - The land at the south east corner of the site is not mentioned in the site description of the ES. The land further to the north also relates to the biomass site and has been overlooked and is not considered in the ES.
 - LVIA states insensitively and incorrectly that Barry and receptors are ‘low value’ – the landscape should be enhanced.
 - Alternative sites have not been genuinely considered (as required through EIA) because the development has been constructed by that point.
 - The site should be repurposed for social purposes on account of the poor conduct of the appellant.
 - The facility takes potable water and would send 4000lts to the sewer system every hour. There is greenhouse gas used up in the collection and processing of this water, which would then goes to waste. It should be re-used. There is a local capacity issue with sewer system which this will not help, and the temperature of the water being disposed and pollutants it contains is not specified.
 - The noise chapter of the ES does not appear to have considered the piling description while advising on construction noise.
 - There is no indication that the surface water attenuation tanks have been designed with sufficient capacity to take cognisance of the extended site area.
 - DIAG have been told (unsourced) that the commissioning process was supported by construction works and alterations to equipment and plant. It is claimed these were minor, but this is called into question. Further works have been carried out following litigation with the original contractor, and these may impact on technical reports and ES data.
 - Climate change: Not all greenhouse gas is accounted for in the climate change chapter of the ES. The carbon impact from the use of water and use of diesel in energy generation operations is not considered.
 - Noise assessment: The operation of the external conveyor is not reflected in the noise modelling. Further mitigation measures should be considered as an integral part of the EIA process not left to planning condition. The permit should not be relied upon as a means of mitigation. The impact on occupiers of the adjacent units should be considered as commercial, not industrial.
 - Light pollution concerns have been raised by residents.
 - Traffic congestion and related emissions
 - Procedural matters, failures, and flaws by the applicant, NRW and Welsh Government relating to the Environmental Permit process.
 - Incorrect statements by Vale of Glamorgan Council concerning the lawfulness of the 2010 and 2015 permissions and the need for EIA.
 - Comments on VoGC Statement of Case for Section 174 Appeal:

- Comments relating to condition discharges.
- Comments relating to responses by Barry Town Council
- Comments relating to responses by NRW
- Comments relating to responses by SRS
- Comments relating to responses by Friends of the Earth
- Comments relating to responses by Jane Hutt: Need for Civil Protection Plan upfront.
- Current reports from the Senedd Climate Change, Environment, and Infrastructure Committee seem to point towards the Welsh Government adopting the limits on pollution set down by the World Health Organisation rather than limits NRW rely on for permitting. The ES does not address this ambition.
- There were concerns raised about meeting between the applicant and Officers from VoGC due to apparent secrecy and lack of independence/ bias, apparent persuasion by Officers of consultee's views to benefit applicant.

Friends of the Earth (Barry and Vale) have submitted various correspondence questioning procedural matters, inaccuracies, and deficiencies in the submission documents. These have been summarised below:

- The application should be rejected (outright) because it is DNS (having a design capacity of over 11Mw)
- Queried the checks undertaken during validation and completeness of the ES.
- The presentation of the documentation is confusing to the public (high file sizes, splitting of documents).
- Quod should not manage the appeal whilst promoting the planning applications (reason unspecified).
- The chief officer of the Vale Council incorrectly referred to the ES as an EIA.
- The ES is deficient in relation to waste planning and flood consequences – (i.e. should be considered as topic areas and a commensurate level of information provided). No scoping agreement exists.
- The submitted flood information is also deficient because it is not an independent expert document, SLR have not reassessed the drainage requirement from peak rainstorms and the GHD document submitted in 2017 does not apply to local peak rainstorms as the calculated intensity of the storm event is not enough, the northern development area has not been considered, it has not been demonstrated that the mains water supply can be provided and is adequate to fill the tank, the storage of firewater and storage of its run-off is not covered, the requirement of the sprinkler system ignored, and the drainage design fails to consider the need to dispose of the firewater.
- NRW's letter 21 March details that flood levels exceeding the tolerable limits of TAN15 on the lower part of the site and suggested getting professional advice on consequences.
- Welsh Government net-zero policies apply to incinerators. Quod have stated they are willing to comply with net-zero and carbon capture. They should explain or update their carbon offsetting claims in the current context and outline practical options for carbon removal, relating to transition to net-zero.
- Queried pre-application discussions/ correspondence with the applicant.
- Stated Council meetings with the applicant are contrary to the openness principle.
- Air Quality Assessment is outdated and criteria for assessment has changed.
- No-risk is a requirement in waste planning whereas the EPHS response says the impact on public health should be minimal.

- Waste Planning Assessment is outdated and TAN15 requires an updated WPA.
- Further environmental information has been submitted and no consultation has taken place.
- Noise assessment deficiencies: The Cory Way site chosen does not meet the sensitive residential receptor criterion and the closest residence on David Davies Road and commercial at Woodham Road should be used. In view of the SRS comment that modification of the structure or insulation may be needed if Quod's noise modelling is required to meet the +4dB criterion, this information should be provided. It is implausible that the Dockside is +2dB noisier than Dock View Rd (night time), as a 7-8dB increase is unacceptable mitigation is necessary through the EIA process (not by planning condition).
- Net Zero: this policy applies to real CO2 emissions and grid offsets don't apply. They have to plant trees or carbon capture (CCS).
- The ES should contain details of the applicants progress in exploring CCS and heat offtake.
- Clean Air Bill has passed in the Senedd and the legal excuse no longer applies. Waste legislation requires disposal without harm to health. Quod's assessments assume old limits suffice to judge no harm despite WHO evidence of harm below these limits. They are also required to consider PM2.5.
- No scoping was carried out for the ES.
- There is extra land in the south east corner in the ES not covered in the 2010 and 2015 plans and there are grounds for believing it is contaminated and The Contaminated Land Statutory Guidance for Wales comes into play. The EIA has to be informed by a risk assessment of the potentially contaminated land.

REPRESENTATIONS

The neighbouring properties were consulted on 22nd February 2023 and 23rd August 2023 and site notices were displayed on 22nd February 2023 and 24th August 2023. The application was also advertised in the press on 23rd February 2023 and 7th September 2023.

The consultation was undertaken in conjunction with application 2023/00033/FUL and as some of the issues are inter-related, these are summarised together, below. The responses from Friends of the Earth and DIAG are summarised separately in the consultation section of the report, above.

There were approximately 100 representations received all objecting to the proposal. The grounds of objection have been summarised below:

Impacts on human health and well-being:

- Air pollution
- Release of particulates including toxins and carcinogens
- Increased noise pollution, odour, and dust

Climate change:

- Increased carbon emissions

- Contrary to green wales agenda
- Waste wood will require importation and/ or transportation over long distances.

Visual impact:

- Inappropriate siting
- Detrimental visual impact
- Impact on private views

Transportation:

- Increased traffic congestion and HGV trips
- Parking congestion
- Inadequate emergency access

Impact on neighbouring (non-residential) sites:

- Impact on nearby hazardous (COMAH) sites

Contamination:

- Water pollution
- Production of hazardous waste

Drainage and Flood Risk:

- Site at risk of flooding
- Detrimental impact on public sewerage and drainage systems

Deficiencies in supporting documentation, alleged inaccuracies, and false statements:

- Associated development at Dock No.2/ Berth 31 not considered
- Deliberate splitting / omission of related development to avoid consideration and scrutiny of the cumulative impacts
- There would be no or little economic benefit from the plant
- Local weather conditions and topography not properly taken into account (plume would behave differently than modelled)
- Pulses of pollution not considered/ over-reliance on average levels/ emissions data
- Stack is too short, and narrowness/ exit velocity not properly considered
- Nitrogen Dioxide background level highly variable (developer has cherry picked favorable results).
- It is not possible to filter the smallest particulate matter (inc. toxins, carcinogens)
- Failure to provide Waste Planning Assessment
- Night time (background) rail noise has reduced since closure of Aberthaw
- No traffic assessment
- Flood risk data out of date
- Bias/ prejudicial actions by Vale of Glamorgan Council
- Vale of Glamorgan council lack sufficient expertise to examine this application

- Failures by Natural Resources Wales (NRW) to review the impacts of the development correctly during the permitting process

Procedural matters:

- Should be defined as Development of National Significance (DNS)
- It is contrary to a moratorium on energy from waste plants
- Consultation period too short

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 SP8 – Sustainable Waste Management
 POLICY SP9 – Minerals
 POLICY SP10 – Built and Natural Environment

Managing Growth Policies:

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

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
 POLICY MD16 - Protection of Existing Employment Sites and Premises
 POLICY MD19 - Low Carbon and Renewable Energy Generation
 POLICY MD20 - Assessment of Waste Management Proposals

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 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 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 16 – Heat Networks

- Large-scale mixed-use development should where feasible have a heat network with a renewable / low carbon or waste heat energy source.
- Relevant planning applications should include an energy masterplan and an implementation plan if applicable.
- Barry identified as a district heat network priority area.

Policy 17 – Renewable Energy

- Support for developing renewable and low carbon energy from all technologies and at all scales.
- Significant weight to the need to meet Wales’ international commitments and the target to generate 70% of consumed electricity by renewable means by 2030 to combat the climate emergency.

Policy 18 – Renewable and Low Carbon Energy Developments of National Significance

- Sets out the criteria for assessing such proposals and refers to the need to consider the cumulative impact of existing and consented renewable energy schemes.

Policy 19 – Strategic Policies for Regional Planning Strategic Development Plans should embed placemaking as an overarching principle and should establish for the region (and where required constituent Local Development Plans):

9. a framework for the sustainable management of natural resources and cultural assets;
10. ecological networks and opportunities for protecting or enhancing the connectivity of these networks and the provision of green infrastructure; and
11. a co-ordinated framework for minerals extraction and the circular economy, including waste treatment and disposal.

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.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 12, February 2024, 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,

Chapter 3 - Strategic and Spatial Choices

Chapter 4 - Active and Social Places

Chapter 5 - Productive and Enterprising Places

Chapter 6 - Distinctive and Natural 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 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)

- Technical Advice Note 14 – Coastal Planning (1998)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 21 – Waste (2014)
- Technical Advice Note 23 – Economic Development (2014)
- 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:

- Barry Development Guidelines
- Biodiversity and Development (2018)
- Economic Development, Employment Land and Premises (2023)
- Parking Standards (2019)
- Renewable Energy (2019)

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
- Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

- 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.
- Landfill Directive 1999
- Waste Framework Directive 2008
- Land-Use Planning & Development Control: Planning For Air Quality (2017)
- Welsh Government: Clean Air Plan for Wales (2021)
- Welsh Government: Noise and Soundscape Action Plan 2018 – 2023
- South East Wales Regional Plan (March 2004)
- Review of the South East Regional Waste Plan (September 2008)
- Waste Planning Monitoring Report: South East Wales (2013 to 2016)
- Vale of Glamorgan Corporate Plan 2020 – 2025
- Vale of Glamorgan Council Climate Change Challenge Plan 2021-2030
- Welsh Government: Building Better Places (2020)
- Welsh Assembly Government Guidance: Towards Zero Waste – One Wales: One Planet. The Overarching Waste Strategy Document for Wales (June 2010)
- Welsh Government: Strategic assessment for the future need for energy from waste capacity in the three economic regions of Wales (2021)
- Welsh Government: Prosperity for All: Low Carbon Wales (2019)
- Welsh Government: Beyond Recycling: A strategy to make the circular economy in Wales a reality (2021)
- Cardiff Capital Region Energy Strategy (2021)
- Climate Change (Wales) Regulations 2018
- British Energy Security Strategy (2022)
- The Planning and Energy Act (2008)
- The Climate Change and Sustainable Energy Act (2006)
- Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021
- Department for Energy Security and Net Zero: Biomass Strategy 2023

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 to the Proposal

Planning history:

A biomass plant was initially proposed under application reference 2008/01203/FUL, which was refused by Members at Planning Committee but allowed at appeal following a public enquiry in 2010.

A second planning application was made in 2015 reference 2015/00031/OUT for a different type of biomass plant. The main difference in technology was a change to the *advanced conversion technology* (ACT) from gasification based on pyrolysis to one based on a fluidised-bed, and the layout was also configured differently. This outline planning application was approved by the Council on 31st July 2015, subject to conditions. It was followed by the approval of landscaping detail through a reserved matters application 2016/00187/RES on 29th April 2016.

The conditions attached to planning application 2015/00031/OUT required the approval of further details by condition. Details submitted under application ref: 2015/00031/1/CD to discharge conditions 6 (waste handling), 7 (materials), 8 (contamination), 10 (enclosures) and 28 (Construction Environmental Management Plan) were approved on 18 May 2016 to discharge those that were required pre-commencement.

There have been planning applications submitted seeking the discharge of other conditions and to retain some elements of the built development in the intervening period. These, however, have either been withdrawn by the applicant or have not yet been determined.

The construction of the plant began after the discharge of all pre-commencement conditions, however, several unauthorised additions and alterations to the approved plans were later constructed. On 17th September 2021, the Council issued an Enforcement Notice alleging two breaches of planning control, namely the unauthorised construction of a wood fired renewable energy plant and unauthorised change of use of land to the north of the site for the storage of containers and vehicle turning space. The reason for doing so was to prevent the development, perceived to be wholly unauthorised at the time, from becoming potentially lawful and unregulated (due to the lapse of time).

In January 2023 applications were submitted to the Council that sought to remedy the breaches of planning control by proposing an amendment to the approved planning permission under s73a of the Town and Country Planning Act 1990 (TCPA) under this application (2023/00032/FUL) and a separate application to retain the hardstanding area to the north of it (2023/00033/FUL).

The Enforcement Notice was however eventually quashed by PEDW on 22nd August 2023. The crux of the issue was that the inspector considered that the requirements of the Notice (to demolish the plant) exceeded what was necessary to remedy the breach of planning control (a breach of condition). This came about because the Council had subsequently accepted, based on evidence and a legal opinion provided by the applicant after the Notice was served, that planning permission 2015/00031/OUT had been lawfully implemented.

Officers accept that planning permission 2015/00031/OUT has been lawfully implemented. The reason for this is that the initial piling and foundations works carried out at the site had constituted a material operation (as described in Section 56(4) of the TCPA), they had been carried out in accordance with the planning permission, and without breaching planning conditions or the wording of the operative part of that permission. There was no breach of planning control occurring at the point these works and implementation of the permission took place. They therefore are considered to constitute implementation the 2015 permission, albeit, since then, additional development and deviances from the approved plans have occurred, resulting in breaches of planning control.

Environmental Impact Assessment:

It has been raised in representations that the determination of planning permission 2015/00031/OUT was not lawful. Planning applications 2008/01203/FUL and 2015/00031/OUT were not accompanied by an Environmental Statement and, at the time of decision, were considered not to be EIA development.

The original planning application 2008/01203/FUL was not accompanied by an EIA. This was originally screened by WG as being EIA Development, however, WG subsequently reviewed that decision and concluded the development was not EIA Development (in the absence of likely significant effects). Having regard to the materiality of this screening decision and the similarities with the development subject of applications 2008/01203/FUL, application 2015/00031/OUT was screened as not being EIA development, and that position was confirmed by WG in their screening letter of July 2015.

This position has been contested principally by the Docks Incinerator Action Group (DIAG) and in response to their correspondence the Climate Change Minister Julie James MS wrote about the issue in her letter dated 29th July 2021. The letter was in relation to the (now withdrawn) planning application 2017/01080/FUL for a fire tank at the site, but the

content and background are still relevant. The application in question was made under section 73 of the TCPA and the Minister concluded that it should be treated as a change or extension to a Schedule 1 project, and so required EIA. The letter also stated that the 2010 permission (2008/01203/FUL) should have *more appropriately* been considered to fall within Schedule 1 (of the 1999 EIA Regulations), and, by consequence of the scale of change and it being a change to a consented project, 2015/00031/OUT was also a Schedule 1 project.

Status of the current proposals

The planning application:

DNS issues

This application is submitted under section 73a of the Town and Country Planning Act (TCPA). It is not considered to be a Development of National Significance (DNS) application because the TCPA excludes this kind of application from being defined as DNS (TCPA 62D subsections (6) and (7) refer). In respect of the proviso at subsection 6, The Development of National Significance (Wales) Regulations 2016 applies, however, it explicitly defines (s.51 refers) only s.73 applications that proposed to extend the time limit for implementation as DNS. It is accepted that planning permission 2015/00031/OUT was implemented within the prescribed period, for the reasons set out above, and this is not a S73 application to extend the time for implementation.

The scope of this assessment

While this is a S73A application it is relevant context to note that Sections 73(2) and (4) of the 1990 Act restrict the scope the determination of section 73 applications to considering the question of whether conditions should apply as originally stated. Consequently, a section 73 application cannot reconsider whether planning permission should have been granted in the first place. A section 73 application relates to development '*without complying with conditions subject to which a previous planning permission was granted*'.

A wider consideration of the planning merits may possible under section 73A subsection 2(a) (which includes scenarios where planning permission had never been granted in the first place). Subsection (c), however, applies to development being carried out '*without complying with some condition subject to which planning permission was granted*'. The scope of assessment here is therefore considered to be akin to that of an s.73 application because the action of refusing an amendment will not ever relieve a landowner of a lawfully implemented planning permission, it is therefore a legitimate fall-back position to consider.

In this case, the implementation of planning permission of 2015/00031/OUT provides an established fall-back position, and in these circumstances, Officers consider that the scope of the assessment is limited accordingly to the amendments sought, any related conditions. The alterations do not alter the fundamental nature of the development, the nature of technology used, its fuel throughput, or to any matter that interacts fundamentally with the principle of developing a wood fuelled energy plant on this site.

The deviations between the approved plans and the development as built nonetheless have the potential affect some of its environmental impacts and these require careful consideration. The prevalent issues are set out in more detail later on in this report.

Environmental Impact Assessment:

The proposals within this planning application are considered as a change or extension to a Schedule 1 project, as defined by the Environmental Impact Regulations Wales (2017) (EIA Regulations).

The scale of change does not fall within those described in Schedule 1 of the EIA Regulations, but falls within category 13(a) of Schedule 2. The corresponding threshold is whether the development as changed or extended may have significant adverse effects on the environment.

No screening opinion was sought from the Council and the planning application has been submitted with an Environmental Statement (ES). The principal consideration is therefore whether the scope of the ES is sufficient, noting no scoping opinion was sought from the Council prior to its preparation. It would appear that informal discussion surrounding the scope of the ES were held with Welsh Government (ES Appendix 3.3) and the ES was reported to be complete by a PEDW inspector when submitted as part of the related enforcement appeal proceedings.

The application has therefore been treated as an EIA application. The methodology of the ES is set out in Chapter 3 and the topics of **Climate Change and Greenhouse Gases** (Chapter 7), **Noise and Vibration** (Chapter 8), **Air Quality** (Chapter 9), and **Population and Human Health** (Chapter 10) are considered within, as well as a Landscape and Visual Impact Assessment in Volume II. There are other topics which have been scoped out of the EIA by the applicant for the reasons set out in p.3.5 and expanded upon in related technical documents that are appended to the ES.

Having regard to the nature and circumstances of planning application, as previously described above, the scope of the ES is considered acceptable. The proposal is for a change to a consented project, and in considering the environmental effects of the above topics from the development, from construction through to operation and decommissioning, it has gone beyond the scope of addressing the changes or deviances from the 2015 planning permission. It has also been compiled by persons qualified in their area of expertise, as set out near the beginning of each chapter.

The ES was also submitted as part of appeal proceedings and subject to a Completeness Report undertaken by a PEDW inspector and dated 5th September 2022, which assessed the content of the ES against the information requirements set out in Regulation 17 and Schedule 4 of the EIA Regulations. The ES submitted with this planning application is accompanied by the same document that was submitted with the appeal, except it is accompanied by an Erratum document (dated 20.12.22), which responds to the points raised within the appeal inspectors report.

It is considered that submitted ES is complete and satisfies the regulatory requirements of the EIA Regulations. Its content and the interactions of the development with the environment are discussed in greater detail below: -

Assessment

Climate Change and Greenhouse Gases

A Greenhouse Gas Assessment is submitted in Chapter 7 of the ES and assesses the resilience of the development to future climate change. It uses an index that allows for seven key greenhouse gases to be measured according to their global warming impact equivalent to carbon dioxide. The assessment identifies the potential sources of impact in addition to the operation of the biomass plant, such as from materials, construction operations, auxiliary plant, electricity, and transport. However, some lesser sources are scoped out of the final calculations, such as water consumption, construction site emissions, some of the embedded carbon in ancillary products, and end of life processes (such as decommissioning and demolition), where they account for less than 5% of the total lifetime emissions.

The use of diesel has been accounted for in the GHG assessment. The figure used in the operation of the plant is specified in Chapter 5 in Table 5.3, albeit the applicant's agent has advised this figure should equate to 160 tonnes per annum (not litres) due to a typographical error. This figure in turn has been considered, together with the use of ancillary plant and an emergency generator in Chapter 7 at Table 7.5 (a total of 163,000 litres per annum).

The emissions from the combustion of biomass are considered to be net carbon zero due to the short carbon cycle of biomass feedstocks, an approach consistent with BEIS Guidance, but other by products of combustion such as Nitrous Oxide and Methane are considered. The assessment also quantifies the other main sources of greenhouse gas emissions that have either been created in the construction or operation of the plant, including the transportation of fuel and ash by-products.

This is balanced against the greenhouse gas emissions associated with producing grid electricity from other sources. The assessment factors in decarbonisation of the grid over the 25 year lifespan used for the assessment. Carbon Capture Storage and heat offtake have not been quantified in this assessment (as mitigating benefits) as they are not currently installed and are not proposed to be as part of this application. The assessment assumes their absence for the entire lifespan of the development, as well as the landfilling of ash rather than recycling, both to better represent a worst-case scenario.

The assessment concludes that the lifetime greenhouse gas effects of the development would be beneficial as being of negligible significance. The assessment also concludes that the development would be resilient to future climate change.

The approach to the modelling work is comprehensive, broadly aligns with industry guidance and has adequately assessed the significance of greenhouse gas emissions of the development and the significance of the net emissions. It is recognised that other, potentially cleaner, renewable energy technologies exist that do not involve combustion. However, the assessment demonstrates that the development is predicted to have an overall net benefit over its lifetime when balanced against the other electricity generating sources currently serving, and predicted to serve, the grid.

The assessment does not take into account the potential benefit of heat offtake and carbon capture on account that these are not part of the proposals. The plant is ostensibly configured to allow for heat offtake to happen if a commercially viable end user is found and for carbon capture technology to be retrofitted. However, it was not a requirement of planning permission 2015/00031/OUT, nor is it part of current planning policy. Their deliverability has not been ascertained and the development subject of this application, being of an ancillary nature, does not warrant their inclusion or further assessment of their future viability.

It is also relevant to consider that, as an amendment to planning application 2015/00032/FUL, the principle of the biomass plant, fuel source and throughput, and the fundamental technology used, are already established in planning terms. Having regard to the above, this changes sought as part of this application would have negligible impact on greenhouse gas emissions and climate change effects. The ES also demonstrates satisfactorily that there would be no unacceptable impact on climate change.

Noise and Vibration

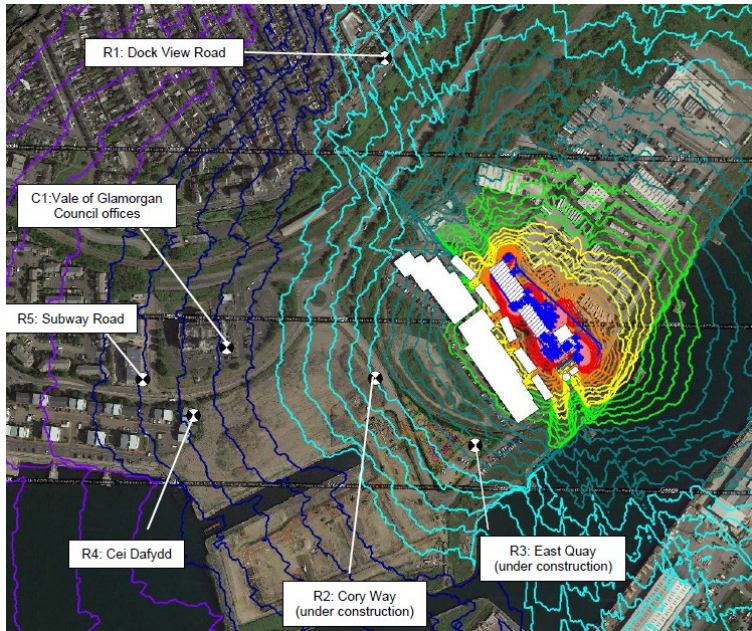
A Noise and Vibration assessment is submitted in Chapter 8 of the ES and it provides an assessment of the predicted noise and vibration impact of the construction phase (retrospectively) and noise impact operation of the biomass plant. The remainder of the section will primarily focus on the operational noise impact given that the main construction phase is complete. The vibration impact of the operational phase has been scoped out of the assessment there are no significant sources of vibration associated with this phase.

As background, a noise assessment was submitted with planning application 2015/00031/OUT. It predicted that the plant would operate below background noise levels at sensitive local receptors at the time. The local context has now changed, with residential development now under construction closer to the site. The EIA does not distinguish between the noise output of the plant as approved and as-built, and contained in the ES is an overall assessment of it, as built. The revisions (e.g. external conveyor) may have materially affected the outcomes of the original assessment, and therefore these impacts are considered below as a whole and in view of the current site context.

The results of background noise survey that has been undertaken in five locations are detailed, three of these were at the site boundaries and two others were located nearby on Dock View Road and Cory Way, as shown on figure 8.4 and described in table 8.1 of the ES. These were monitored over a two week period in early 2022 and periods of atypical weather (that may have given a higher background reading) have been excluded.

The assessment then details the results of noise modelling work to residential receptor points at Dock View Road, Cory Way, East Quay, Cei Dafydd and Subway Road. The background survey results of the Cory Way survey point are used to represent the baseline levels of the latter four receptor points (table 8.21 of the ES refers). This is considered acceptable to represent a baseline level for East Quay because they are near to one another. The points at Cei Dafydd and Subway Road are further away (so the figure used is less representative). The background survey results submitted for the 2008 and 2015 applications show Cei Dafydd was slightly quieter, (35-40dB Laq) at the time. Nevertheless, a somewhat quieter baseline in these areas would not affect the significance of the results because they are much further away from the plant less exposed to noise impact from it. It should also be noted that the data in the ES is more up to date and robust, with measurements taken over a (far longer) two week period.

The modelling work undertaken as part of the ES has also been updated to reflect the development as built, based on a comprehensive list of apparatus contained in Appendix 8.6. The modelling work accounts for the operation of the external conveyor (which was housed internally in the approved plans), albeit without it being loaded with biomass material. The modelling work is then used to assess the likely impact at the receptor points. The assessment work accounts for the impact up to second storey level and the areas potentially worst-affected (as shown in the below extract from Appendix 8.7.



The ES details the results of the modelling work at table 8.35 of Chapter 8 of the ES and the results find that an adverse impact ($>5\text{dB}$) from the plant would be likely to occur at Cory Way (R2) in the night time and East Quay (R3) in the evening and night time. The impact is modelled to be up to $+7\text{dB}$ at the worst affected point.

A series of mitigation measures are specified at para. 8.6.68 of Chapter 8 of the ES and these are used as a basis to model the projected impact of the plant with these additional mitigation measures in place. These measures include replacement parts and additional acoustic enclosures for some elements of the plant and are proposed to be implemented before the plant becomes fully operational.

The results of the modelling with these mitigation measures implemented are provided at Table 8.45 in Chapter 8. This modelling predicts that the impacts would be sub-adverse, with the impact at the worst-affected receptor East Quay (R3) modelled to be $+4\text{dB}$ at night.

The modelling results indicate that there would be an audible difference in the sound level at some receptor points during quieter hours. However, the increase is not likely to be adverse according to BS 4142 thresholds and consequently is identified as an impact of minor significance in the ES.

The ES methodology follows BS 4142 guidance and assesses the environmental change that would occur as a result of the development. The highest predicted rating (with mitigation) is predicted to be $+44\text{dB}$ at East Quay during the night which would place it at

the upper end of Noise Exposure Category 'A' of TAN 11 Noise. These categories are used only to assess whether sites are suitable for new noise-sensitive development, but does indicate that the overall environment would not be unacceptably noisy, despite there being an impact (of minor significance) identified in the modelling results.

In addition to residential receptors, the ES considers the magnitude of effects upon other premises. The sensitivity of these premises are defined in Table 8.14 of Chapter 8, with examples of types such as offices (medium), retail shops, restaurants (low), also industrial, warehousing (negligible). These are grouped elsewhere as either commercial or industrial. Among the premises modelled is a café located in one of the Nissen style buildings on Woodham Road. An internal noise level of 33dB is predicted, which is below the design range specified in BS 8233 for retail or food premises, and is assessed to be a negligible effect. It has been raised in representations that the Hawkins Antique units are not industrial. The methodology of the ES is considered sound, however, and considering the background levels surveyed in the area together with the predicted impacts from the development, there would not be an unacceptable impact to these, or any other, units on Woodham Road.

The modelling work undertaken has been subject to review by Shared Regulatory Services (SRS) and they have advised it is acceptable. It is considered to be comprehensive and robust, albeit as noted the external conveyor was not modelled with load. While it is considered unlikely that the loading of the conveyor would have a materially different impact on the modelling results, conditions exist in relation to the site Permit that require a full assessment to confirm its predictions.

Improvement Condition 4 of the Permit requires the operator to carry out a full assessment of noise when the plant is operational to confirm predictions made in the Permit application. Further environmental noise monitoring would therefore be undertaken at key noise sensitive receptor locations once the development is operational as part of the Permit requirements. SRS have also proposed a planning condition that would prohibit the operation of the plant if it was found to be operating at a level that was causing an adverse impact (**see conditions 2-4**). This is considered to be a robust set of provisions to protect amenity.

Having regard to the above, the vibration impact of the development is considered acceptable, as is the noise impact subject to condition(s) which seek to limit the impact of the development to neighbouring residential properties in the interest of amenity.

Air Quality

The ES contains, in Chapter 9, details of an air quality assessment. It considers the potential sources that might impact on local air quality. The principal impact considered is the potential impact arising from the operation of the biomass plant, which comprises a gas boiler that utilises synthetic gas generated from the gasification of waste wood. The high-pressure steam generated by the boiler is then directed to a steam turbine, and in turn, this generates grid electricity. The emissions from this process are directed to the air via an approx. 43m tall stack. The impacts from the construction phase are also considered retrospectively. The impacts from traffic, operational dust, and odour are scoped out of the EIA but are considered in more detail later in this section of the report.

The facility is assumed to operate constantly for the purposes of the assessment and the ES details the results of the operational emissions using detailed dispersion modelling,

and predicts the environmental concentrations of several pollutants (p.9.3.4 of Chapter 9) on various human and ecological receptors in the local area. The assessment establishes a baseline level for these pollutants using locally sourced data records where available (adjusted for anomalies such as the pandemic). It then quantifies maximum emissions produced by the operations (Predicted Concentrations) and uses them to determine the maximum predicted concentration in the air (Predicted Environmental Concentrations). These are then presented in comparison to the Air Quality Assessment Level (AQAL), which is set by the associated regulatory and/ or target air quality levels for that pollutant (sources contained in Appendix 9.1).

The results of the assessment indicate that there would be increased concentration of pollutants in the air as a result of the operation of the plant, compared to the baseline. The impact would vary according to weather conditions, but the assessment work uses the local context and meteorological data to inform the modelling. The short and long term effects on air quality are considered and the ES finds that concentrations of pollutants likely to be emitted would be below the relevant air quality standards set for human health at all modelled receptors. The significance of the effect on air quality is therefore described as negligible / insignificant. The Council's air quality officer (in Shared Regulatory Services) has reviewed the modelling work undertaken and agrees with its findings.

The ES assessment is based on an internal diameter of 1.6m for the stack, which is the internal dimension of the as-built stack as confirmed by the operator. It is wider than the internal stack diameter (1.27m) upon which the Air Quality Assessment for planning application 2015/00031/FUL was based. The updated modelling has therefore taken into account the revised stack diameter and velocity of the emissions. The assessment has also taken into account the stack height and the height of adjacent buildings, including the additional structures specified in this application and potential for downwash. The model is based on Industrial Emissions Directive (IED) upper limits, supplemented with data from other comparable sites for those pollutants without specific IED limits. The normal operation scenario presumes it will operate continuously, throughout the year. It is therefore representative of a worst case scenario, assuming pollutants are emitted at their legal limits. The plant may operate for less than that, and start-ups and breaks in fuel feed may affect efficiency, but the plant would be regulated so not be operated for any significant length of time in breach of IED limits. The potential for higher emissions during abnormal scenarios in the short term is also considered. The modelling assumptions are considered reasonable in this respect and, as noted, have been reviewed by SRS. No comments have been received from NRW in relation to air quality, noting air quality control is regulated through the Permit and breaches would be subject to enforcement controls relating to the permitting process.

It is noted that the Clear Air Bill has passed in the Senedd. It sets a commitment to set targets and allows Welsh Government to legislate for them. The ES has assessed the air quality impact based on appropriate current targets, represented as the AQAL. The plant would need to comply with any future legislation if more onerous targets were legislated for in future.

The scope of the EIA relates to the development as built, and it does not distinguish the precise impact of the alterations and additional structures in isolation. Nonetheless, these revised modelling demonstrates that the facility would not significantly impact air quality in its own right. The principal elements of the scheme, such as its position, , fuel type, throughput, technology are all fundamentally the same. The EIA also demonstrates satisfactorily that there would be no unacceptable impact on air quality from the operation of the plant.

There is a Dust and Particulate Emission Management Plan (Appendix 9.2 of the ES) submitted with the application. The principal potential sources of dust and particulate matter are from the delivery, transfer and processing of waste wood at the site. The management plan concludes that there is a very low risk of nuisance or exposure of the local receptors to dust and particulate matter. For instance, the unloading of wood stock would take place in the enclosed fuel processing building and the external conveyor is housed. The dust impact from operation of the plant is considered acceptable, noting that the management plan is also regulated by NRW through the site Permit. Note, the impact of particulates emitted from the stack are considered together with other emissions in Chapter 9, as described above.

The potential impact from odours is also considered acceptable, noting the wood fuel source for the plant is not inherently odorous and would be covered on delivery and processed in the enclosed fuel processing building and the external conveyor is housed.

The impact on human health from changes to air quality is considered in more detail below:-

Population and Human Health

The impact to population and human health is considered in Chapter 10 of the ES and the Human Health Risk Assessment (Appendix 9.8) and Health Impact Assessment (Appendix 10.1). The construction phase of the development is substantially complete and considered not to have caused significant effects, and therefore the remainder of this section will focus on the operational impacts.

The Health Risk Assessment explores the health impacts of the predicted air quality changes in more detail. It recognises that, according to the assessment in Chapter 8, that there would be an (insignificant) decrease to air quality and therefore further assesses the consequences. The methodology used also predicts a minor increase in the risk of hospitalisations as a result (table 10.4 refers), but not one that would lead to a measurable (i.e. statistically significant) change in health outcomes. This document has also been reviewed by Shared Regulatory Services, and they stated that it *'confirms that the exposure of individuals to pollutants, even in a very worst case scenario, would not be significant during normal or abnormal operating conditions'*.

There are also mitigation and monitoring targets relating to adverse health outcomes (e.g. air quality, noise etc.) tied into the Permit that this type of facility requires to operate. This means the facility will be subject to monitoring by NRW, which can facilitate intervention (such as the removal of the permit). The Health Risk Assessment and ES also consider the impact of risk perception on health, and conclude that the monitoring of the site and/or local air quality would provide positive mitigation in this respect.

Planning application 2015/00031/OUT was also accompanied by an Air Quality Assessment which concluded that there would be a minor adverse impact on air quality. The ES has re-assessed this impact in line with EIA methodology and concluded similarly that there would be a slight adverse, but not significant, effect on population and human health. The amendments proposed as part of this application are considered acceptable as a result.

Landscape

The ES contains a Landscape and Visual Impact Assessment (LVIA). It contains a zone of theoretical visibility (ZTV) diagram that identifies areas from which the development is potentially visible, and this has been used as the basis for assessing the impact of the development from 12 specified viewpoints. The LVIA also used established methodology and Landmap information to assess the landscape value and sensitivity of the area. The dismay regarding its description of some aspects of the existing landscape being of low value is recognised, however, it is a reflection an objective assessment that attempts to quantify its value based on features such as its renown and the presence of landscape designations. The LVIA also assesses the significance of the visual effects of the development at various receptor points, concluding that there are no significant effects, including to users of the Wales Coastal Path.

The construction of the biomass plant has resulted in an appreciable visual change locally, with views from residential properties and public areas on Dock View Road being among the most sensitive and affected by the development. It is nonetheless a variation to an approved facility and it is considered that the alterations and additional structures proposed as part of this application have not resulted in an adverse visual impact, considering the site's context. The site sits in a markedly industrial immediate context and within the wider industrial landscape of this part of Barry, it is considered that the changes to the scheme have not had a markedly greater impact. It is acknowledged that there is now a less simplified external appearance to the plant as a whole, however, those new structures are substantially viewed against the backdrop of the larger pieces of the development, which are not appreciably changed by this proposal.

There has been a change to the wider context with residential development undertaken at East Quay, however the predominant character of the site and its immediate surrounds remains overtly industrial, and in any case the future development of East Quay was known at the time of the 2015 approval- i.e. that decision was made with the understanding of future residential development there.

The development proposed as part of this application is considered acceptable having regard to the above, and noting the conclusions of the LVIA which has adequately and objectively assessed the visual impact of the biomass plant as not having a significant effect. The visual impacts of the amendments are considered acceptable.

Waste

As background, planning application 2015/00031/OUT was accompanied by a Waste Planning Assessment (WPA), in accordance with the requirements of TAN 21. This policy document remains in force, as have the general principles of the waste hierarchy that are enshrined in policy through the intervening updates to Planning Policy Wales. Policy MD20 (Assessment of Waste Management Proposals) of the Council's LDP now also requires proposals for waste management facilities to be supported by a WPA. This application is for an amendment to planning application 2015/00031/OUT and, given there are no amendments to the type of facility, generating capacity, or the waste type and throughput, a revised WPA is not considered necessary for the nature of the application. The principle of the development and its fundamental impacts in relation to waste consumption and disposal are already established and were considered as set out in the related Officer's report.

Beyond Recycling (Welsh Government, 2021) contains an action for Welsh Ministers to put in place a moratorium on any future large scale energy from waste developments, due to increases in recycling and reduction in wastes seen. It was put into effect on 24 March 2021. The strategic assessment evidence base (*Strategic assessment for the future need for energy from waste capacity in the three economic regions of Wales, 2021*) is understood to relate to mixed municipal waste streams. Consequently, and given the timing relative to the Barry site being approved (and given the nature of this proposal relating principally to ancillary structures), it is considered that this does not apply to this case.

The application is accompanied by a Materials and Waste Technical Note (Appendix 3.16 of the ES). This does not replicate the requirements of a WPA, but it considers the impact of the development has the potential to give rise to significant effects in this area for scoping purposes relating to the EIA. It states that the facility would receive grades of wood (PAS 111 Grade C) unsuitable for recycling and would otherwise be destined to be used for energy recovery elsewhere, or otherwise landfilled. The Note does not explore matters such as sector capacity, feedstock availability and the proximity principle in any great detail, but as noted, these were fully considered in the assessment of planning permission 2015/00031/OUT through the submission of the initial WPA and associated officer's report.

There have been concerns raised in representations that the plant may run out of suitable feedstock and be converted to receive other waste types. This would cause conflict with the planning permission and the conditions which directly control the fuel type and throughput. These are requirements of the permission and it would remain incumbent on the operator to source compliant feedstock. These conditions are recommended to be retained (**see conditions 13 & 14**).

Major Accidents and Disasters

The application is accompanied by a Major Accidents and Disasters Technical Note (Appendix 3.15 of the ES) which is based primarily on assessment work undertaken for the Permit application. The effects arising from the vulnerability to major accidents is also considered in Chapter 5 of the ES.

This has informed an Accident Management Plan which is a regulatory requirement of the Permit. The principal planning considerations in this area are land-use based, such as the location of the development, design, layout, and its potential impact on surrounding uses. The operational elements are regulated separately, such as through the Permit, as is workplace safety. The Permit also regulates fire safety through a Fire Prevention and Mitigation Plan in consultation with the Fire Service.

The application is for a variation to planning permission 2015/00031/OUT and therefore the principle of the development in this location is already established, as are the elements of the development that accord with the planning permission. In relation to its use and location, which is established, the development does not involve receipt or storage of hazardous waste and it is outside of any COMAH (HSE) consultation zone. DSEAR compliance is a separate regulatory process.

The representations from DIAG in relation to design of the facility and fire risk are noted, however, these have been subject to review by NRW and the Fire Service have not objected to this application (they are also consulted as part of the permit application process). The principal change in design that may affect emergency responses applicable to this application is to the external layout, noting the need to access the site in the event of a fire or other emergency. The latter is considered further in the Highways and Transportation section of this report.

Flood Risk

As background, while flood risk to the development was considered, the site lay outside the areas of greatest flood risk (Zone C2) based on the most up-to-date flood model (DAM) available when application 2015/00031/FUL was determined. The flood models are subject to periodic updates by NRW as the flood modelling work is refined, models updated, and adjustments have also been made attributing greater weight to the predicted effects of climate change. The most recent maps (Flood Maps for Planning-FMfP) indicate parts of the site are now within the areas of highest risk from tidal flooding (Flood Zones 2 & 3 - Seas). The development is classed in policy terms as highly vulnerable – a type that policy typically advises against in the areas at highest risk of flooding. However, considering that planning permission 2015/00031/FUL has been lawfully implemented, the use of the site for this purpose is established. The principal consideration is whether it remains acceptable on account of the alterations and additional structures on the site.

In this regard, assessment work in the form of a Flood Risk and Drainage Technical Note (July 2022) was submitted with the application. It was subject of review by NRW in relation to flood risk and, although they did not object, it was noted by officers that the development was incorrectly described as *less vulnerable* in the document and Welsh Government guidance assumed a Lifetime of Development (LoD) of 75 years for flood risk work for this development type, whereas 25 years was used in the July 2022 note. A supplementary document dated May 2023 was later submitted to seek to address these points.

The additional document was also subject of technical review by NRW, who concluded that their concerns in relation to flood risk could be overcome by attaching a planning condition that secured finished floor levels remain in accordance with those set out in Table 3-1 of the Technical Note (**see Condition 6**). They stated that the flood risk work demonstrated that the FFL of the Turbine Hall, Main Process Building and Wood Processing Warehouse were all set above the 0.5% Climate Change Adjusted (CCA) flood level and it showed that the risks and consequences could be managed to an acceptable level. They noted that the 0.1% CCA event was also within the tolerable limits of A1.15 of TAN15 (less than 1000mm), but that there was no assessment against its remaining criteria (rate, speed & velocity).

It is stated within the May 2023 Note that the operator has prepared a Flood Emergency Plan and it is in place. A specific Flood Emergency Plan has not been provided, but considering the established use and nature of the application, and that the actual flood depths associated with the 1 in a 1000 year (plus climate change event) are demonstrably tolerable and affect only part of the site, it is not considered necessary to secure such further detail by condition. NRW modelling predictions and consequently the understanding of the actual flood risk has evolved since 2015, as described above. The changes and alterations proposed in this application, however, have not fundamentally changed its resilience to flooding. The specific site procedures, control measures etc. during such events are subject to regulatory controls through the Permit and/or related health and safety and civil contingency legislation.

In summary, it is acknowledged that part of the site lies within flood zone C2/zone 3. However, that position has been considered in the context of the factors explained above. i.e. the part of the site affected and consequently the nature of the risk (which has been deemed acceptable by NRW), the planning history which establishes the use has been implemented (and therefore the fall back position) and the scope of assessment that is subject of this application- i.e. whether the changes from the approved scheme are acceptable. It is considered that the relatively minor changes to the development have not resulted in a materially more harmful flood risk- compared to a scenario where the 2015 scheme had been implemented as per the approved plans (and this is considered to be a lawful fall back position given the implementation of that permission). Consequently, refusing the application based on its location partially in C2/zone 3 would not result in a materially different outcome relative to that approved scheme, and it is therefore considered on balance that the development is acceptable in respect of flood risk.

Drainage

As background, a drainage scheme is required to be approved under Condition 13 of planning permission 2015/00031/OUT. A scheme has submitted to the Council in the past but it did not show the final connection point for the discharge of surface water. This information was requested by the Council's Drainage Engineer, however detail relevant to that followed and the condition was never discharged.

There are drainage details contained in the Flood Risk and Drainage Technical Note (July 2022) and these have been supplemented with the submission of a catchment plan and MicroDrainage outputs. The details illustrate that surface water is captured by the on-site system with attenuation storage and discharges to an existing surface water drain near the site entrance. The rate of discharge is controlled by a pump. The effectiveness of the system has been demonstrated by drainage modelling that tests the capacity of the system during high rainfall events.

The modelling work has been subject of technical review by the Council's Drainage Engineer. They initially requested further information (as detailed in the Consultations section of this report, above). Based on the results of a more conservative modelling approach and further justification demonstrating the rationale behind it, the drainage scheme was considered acceptable. They also advised that they were in acceptance that the constructed development would not be subject to Schedule 3 of the Flood and Water Management Act (i.e. not require SAB approval).

Friends of the Earth have also provided representations, objecting to the drainage scheme (dated 04.08.23). These include objections to the modelling, failure to include sprinkler and firewater in the storage calculations, failure to show a suitable mains water supply is available, and failure to include the land to the north in calculations. These have been considered, and were shared with the Council's Drainage Engineer prior to their confirmation that the submitted details were acceptable. The modelling work and extent of the catchment are considered acceptable.

In response to the consultation Welsh Water confirmed that capacity existed to receive foul only flows from the site, and requested a planning condition that would prohibit the land drainage from connecting to the main foul (combined) sewer. The drainage scheme shows that the foul and surface water discharge separately and this arrangement is considered acceptable. This is also a condition of planning application 2015/00031/OUT and retention of both can be secured by condition (**see condition 7**).

Ground Conditions

The application is accompanied by a document titled Technical Review: Ground Conditions (July 2022) by SLR. It is a report outlining a peer review of contamination reports previously submitted and discharged under Condition 8 of planning permission 2015/00031/OUT. These documents are held under application reference 2015/00031/1/CD and were approved prior to commencement in 2015. The approved reports contained detailed evaluation, mapping, and (intrusive) investigation of the site. There were areas of asbestos contamination found but no others of concern were found. The verification report details that 28 loads of asbestos impacted soils were removed to landfill, where concentrations were found to be below 0.1% (and it was subsequently classified as non-hazardous). No elevated fibre concentrations were recorded.

It is noted that the prior reports did not consider the areas developed to the north and south-east, outside of the application site boundary. These areas do not affect any of the the alterations and structures considered within this application. Nevertheless, the SLR report considers that the site conditions on these, relatively small, parcels of land would have substantially the same as the main application site, and, any residual risk of any contaminant, if present, is unlikely to present a risk of any adverse impact.

Lighting

The application is accompanied by a Lighting Design Scheme (Appendix 5.4 of the ES) which is understood to be the scheme currently installed at the site. Condition 12 of planning permission 2015/00031/OUT requires that a scheme is submitted for approval and, to date, no such details have been approved.

The site is located in an urban area subject to relatively high sky glow at night and the lighting from the site does not significantly affect ecological dark corridors and habitats. The submitted detail is considered acceptable in this respect.

The nearby commercial and industrial units are not considered to be highly sensitive to light spillage or harmfully impacted by light pollution from the site. The facility is floodlight and is seen prominently against the backdrop of the night sky, but also in the context of the wider docks area which is also prominently lit. It is noted that complaints have been received in the past in relation to light impact, however, there appears to be no significant light spill to residential areas that would cause a materially adverse impact to their amenity and living conditions. The submitted detail is considered acceptable and can be secured within the plans condition. A revised condition that prevents the erection of new lighting at the site unless in accordance with submitted details is recommended (**see condition 10**).

Ecology

There is an Ecology Technical Note (March 2022) submitted with the application and this was later supplemented with a letter from the consultants SLR dated August 2022. The technical note identifies designated ecology sites within 15km of the site. It also identifies that there are records of amphibians and reptiles in the Barry Docks area. There were no records of protected flora or fauna on the application site.

There are records of rough mallow (described as rough marsh-mallow) nearby, which is listed as on Schedule 8 of the Wildlife and Countryside Act, meaning it is an offence to pick, uproot, or destroy it. It was recommended in the Technical Note that a walkover survey was conducted mid-summer to confirm whether the plant was present on the site. No record of the plant was found on the site prior to the approval of application 2015/00031/OUT, or since, but the last site-specific survey in January 2009 had been undertaken outside of summer. The walkover survey in August 2022 also concluded that this plant was not present on the site.

The vascular plant specialist in NRW has also confirmed that known records of the rough mallow are outside of the site boundary. The Council's Ecologist did not object noting that the plant must be presumed to be absent because there are no recent records on this site.

There were also no concerns raised by NRW or the Council's Ecologist in relation to designated sites in the area or other protected species. This application is also for an amendment to an approved scheme and compliance with the approved landscaping scheme, comprising of 17 no trees and other planting, is considered acceptable given the nature of the application and the site context. Having regard to the former condition and ecological value of the site, it is considered that these matters represent adequate and proportionate net benefit, in accordance with the requirements of PPW chapter 6 and in order to comply with the duty under section 6 of the Environment (Wales) Act 2016.

Heritage

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states as follows:

“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.”

A Built Heritage Statement is submitted with the application that identifies the site history and development from unclaimed marshland through to its development as part of the docklands. It also identifies heritage assets within a 750m radius, which include the Bendrick Round Barrow Ancient Monument and several listed buildings. The Barry Docks Offices and David Davies statue are Grade II* listed, as is the Sliding Bridge at Dock No.3.

The statement provides an assessment of the impact on the significance of the heritage assets potentially affected by the whole development, namely the Dock Office grouping and former Customs House and Mercantile Office. It notes that the listed buildings of the dock area have a historic relationship with the docks, albeit this has reduced since the removal of the rail infrastructure that used to serve the coal loading bays that line the dock, as well as its widespread redevelopment. It considers that there has been no harm to the significance of these designated historic assets.

The proposal is for an amendment to the planning permission for this development, which has had a negligible impact on the significance of local historic assets. It is considered that the settings of the listed buildings identified above and in the Built Heritage Statement have been preserved and the development is acceptable on this basis.

Highways and Transportation

A Transport Technical Note (July 2022) is submitted with the application (Appendix 3.10 to the ES). Vehicular access to the site is from David Davies Road, via Cory Way and Ffordd y Mileniwm. It is anticipated that the amendments proposed as part of this application will not have any material off-site impacts during the operation of the facility, such as to HGV trip volumes or other impacts to the local highway network, because of their nature. The principal impacts to consider are the acceptability of the resultant changes to the site layout. The construction phase is considered retrospectively in the Technical Note but this phase is substantially complete.

Details of the site access, turning facilities, visibility, and parking are secured for approval by Conditions 16 – 19 of planning permission 2015/00031/OUT. There have been details submitted to discharge these conditions but not approved to date. The implemented access is considered acceptable by the Council’s Highways Engineer in respect of visibility and safety, and they do not object in this regard. These details would be secured in the revised plans conditions.

There has been an additional hardstanding area constructed to the north of the site to facilitate HGV turning, noting additional structures have been erected on part of the turning area on the approved layout. This area is being considered separately under planning application 2023/00033/FUL, which has not yet been determined. In considering both together, the Council’s Highways Engineers have not objected. The turning area to the north represents an improvement over the approved turning facilities. If approved as recommended, this would secure that adequate HGV turning facilities are retained at the site.

In addition to the above, the parking area in the south western corner of the site, shown in the approved layout plans for planning permission 2015/00031/OUT, has also been displaced due to the erection of unauthorised structures within it. There were 12.no spaces approved and there have been 14.no marked spaces created on the site. The submitted site layout plan with this application however shows 8.no marked spaces, on account that some of those constructed lie outside of the original site area.

There has not been an application made to retain these spaces (unlike in the case of the additional hardstanding to the north). It would unlikely be considered expedient to require these spaces to be removed, but nonetheless, they are outside of the site bounds and cannot be considered as secured in the long term. It is considered that the 8.no parking spaces shown are acceptable in comparison to the number of staff, noting that there is ample space to accommodate vehicle parking in the northern hardstanding area without impacting the ability of HGV's to turn in a single manoeuvre.

It is considered that the proposed amendments are acceptable in relation to the highways and transportation impacts, subject to approval of application 2023/00033/FUL to retain the additional hardstanding area to the north to facilitate turning of HGVs.

The layout has been reviewed by the Council's Highways Engineer and is considered acceptable, and provides safe access, turning facilities, and has adequate space for parking. The application has also been subject to consultation with the Fire Service, who did not object. It is considered that the amendments proposed in this application are acceptable and do not result in any material increase in fire safety risk. The firewater tank has also been installed to reduce this risk and ensure that firewater is readily available.

Condition 29 of 2015/00031/OUT requires that a Green Travel Plan be submitted prior to first beneficial use. This has been submitted as is contained within the Transportation Technical Note. It outlines several measures designed to (so far as reasonably possible) minimise the carbon impacts of transportation aspects of the facility. It is considered acceptable and is recommended to be secured for delivery by condition (**see condition 12**).

Tourism and Socioeconomic Impact

A statement has been provided which discusses the potential significance of the development in relation to tourism and the local economy. The immediate area is primarily industrial and residential in character and the facility and there are relatively few recreation uses and hotels within 1km. The Wales Coastal Path is nearby and no unacceptable impacts to it have occurred, as considered previously in the Landscape section of this report. The facility would employ a small number of people resulting benefit to the local economy. There is no evidence to suggest the facility is harmful in respect of local trade and tourism and the alterations subject of this application are largely immaterial in this respect.

EIA Regulation 25

In accordance EIA Reg. 25, this assessment has, in consultation with technical consultees, examined the environmental information submitted, and has enabled informed conclusions to be drawn on the significance of effects. For the reasons set out above, it is considered that the proposal would not have significant adverse effects on the environment and further it is considered that no subsequent monitoring is required, other than where referenced in conditions below. The recommendation and proposed conditions are provided having regard to all of the environmental and associated information submitted, including the Environmental Statement.

RECOMMENDATION

Having regard to all the submitted environmental information in accordance with Section 25(1) of the 2017 EIA Regulations, to APPROVE subject to the following condition(s):

APPROVE subject to the following condition(s):

1. The development shall be operated in accordance with the following approved plans:
 - Site Location Plan (ref. BRBM-HMA-ZZ-ZZ-DR-A-P205);
 - Site Layout (ref. BRBM-HMA-ZZ-ZZ-DR-A-P200);
 - Site Elevation 01 (ref. BRBM-HMA-ZZ-ZZ-DR-A-P201)
 - Site Elevation 02 (ref. BRBM-HMA-ZZ-ZZ-DR-A-P202)
 - Site Layout and Elevations (ref. BRBM-HMA-ZZ-ZZ-DR-A-P203)

Planning Statement January 2023 (inc. Appendices)

Reason:

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

2. Prior to the operation of the plant, all necessary noise management measures must be implemented to ensure that the noise rating level of the plant at the nearest residential receptors assessed in Chapter 8: Noise and Vibration of the Barry Biomass Facility Environmental Statement July 2022 (as shown on Figure 8.1 of the ES, including Dock View Road, Cory Way, East Quay, Cei Dafydd and Subway Road) can be demonstrated as being 'sub-adverse' and no more than 4 dB above the prevailing background sound levels when measured in accordance with BS4142:2014 +A1 2019.

Reason:

In the interest of residential amenity and to ensure compliance with the terms of Policies MD2 (Design of New Development) and MD7 (Environmental Protection) of the Local Development Plan.

3. Once the noise mitigation measures identified in condition 2 have been fully implemented, and prior to the energy plant commencing commercial operations, a noise survey of the plant fully operating shall be conducted at the existing and proposed residential receptors (as shown on Figure 8.1 of the Noise and Vibration of the Barry Biomass Facility Environmental Statement July 2022), to demonstrate that the rating level at each of the locations is no more than 4dB above the prevailing background noise levels. The noise survey should be undertaken in accordance with BS4142:2014 +A1 2019. The Survey, with a validated certificate of compliance by an approved acoustic assessor, shall be submitted to the Local Planning Authority to demonstrate this has been achieved.

Reason:

In the interest of residential amenity, and to ensure compliance with the terms of Policies MD2 (Design of New Developments) and MD7 (Environmental Protection) of the Local Development Plan.

4. If any survey carried out in accordance with BS4142:2014 +A1 2019 indicates that the rating level of the noise from the energy plant exceeds 4dB above the prevailing background level at any of the existing or proposed residential receptor sites stated above (as shown on Figure 8.1 of the Noise and Vibration of the Barry Biomass Facility Environmental Statement July 2022), the operator shall provide the Local Planning Authority with the results of a detailed acoustic investigation along with the details of any further schemes of noise mitigation required to resolve and mitigate any identified issues. All identified actions and further schemes of noise mitigation will be submitted and approved in writing, and those measures implemented at a timescale agreed by the Local Planning Authority. Should noise complaints be received by the local authority and substantiated by Officers of the Environmental Health Department as exceeding 4dB above the prevailing background level in accordance with BS4142:2014 +A1 2019 and having a greater than sub-adverse impact on residential receptors, the part of the plant creating the noise problem shall not operate until further noise mitigation measures are agreed with the Local Planning Authority and have been implemented.

Reason:

In the interests of residential amenity and to ensure compliance with Policies MD2 (Design of New Developments) and MD7 (Environmental Protection) of the Local Development Plan.

5. Ambient air quality monitoring shall be carried out at the nearest residential property locations, 57 Dock View Road; Cory Way; and Estrella House, Cei Dafydd. The results shall be submitted to the Local Planning Authority within 12 months of the plant hereby approved commencing commercial operations and, should the results indicate that the air quality levels fail to comply with predicted concentrations as set out in the Air Quality Assessment submitted in Environmental Statement July 2022, commercial operations shall pause until such time as a scheme of mitigation has been submitted to and approved in writing by the Local Planning Authority, and those measures identified in the scheme, implemented. The development shall at all times be carried out in accordance with any mitigation measures that are identified as being necessary.

Reason:

In the interests of residential amenity and to ensure compliance with Policies MD2 (Design of New Development), MD7 (Environmental Protection) and MD20 (Waste Management Facilities) of the Local Development Plan.

6. Finished floor levels must be set in accordance with the following as indicated in Table 3-1 of the Technical Note Reference 407.13039.00002 Supplement to Issue 4, dated May 2023.

- Turbine Hall – 8.71mAOD
- Process Building – 8.71mAOD
- Wood Processing Warehouse – 9.27mAOD

Reason:

To reduce the risk and impacts of flooding to the proposed development and its owners/employees, and to ensure the development accords with Policy MD7 (Environmental Protection) of the Local Development Plan.

7. The foul and surface water drainage scheme contained in Appendix 3.14 of Volume III of the Environmental Statement, dated July 2022, shall be retained to serve the site, and managed and maintained thereafter in accordance with the management and maintenance plan contained therein. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason:

To ensure that the development is serviced by appropriate drainage and to ensure compliance with the terms of Policies MD2 (Design of New Development) and MD7 (Environmental Protection) of the Local Development Plan.

8. The management of fly ash and bottom ash waste generated from the development shall be carried out in accordance with the approved Process for the Collections, Removal and Disposal of Ashes Note contained in Appendix 2 of the Planning Statement January 2023.

Reason:

In order to ensure the disposal of waste from the site without harm to local amenity, and to ensure compliance with Policies MD2 (Design of New Development), MD7 (Environmental Protection) and MD20 (Assessment of Waste Management Proposals) of the Local Development Plan.

9. The site operations shall be carried out in accordance with the approved Dust and Particulate Emission Management Plan contained in Appendix 9.2 of Volume III of the Environmental Statement, dated July 2022.

Reason:

In the interests of local amenity, and to ensure compliance with the terms of Policy MD2 (Design of New Development) and MD7 (Environmental Protection) of the Local Development Plan.

10. No external lighting shall be installed at the site unless where in accordance with the Lighting Design Scheme contained in Appendix 5.4 of Volume III of the Environmental Statement, dated July 2022.

Reason:

In the interests of residential and visual amenity, and to ensure compliance with Policies MD2 (Design of New Development) and MD7 (Environmental Protection) of the Local Development Plan

11. The access shown on approved layout plan ref. BRBM-HMA-ZZ-ZZ-DR-A-P200 Rev P01 shall be retained in accordance with these details.

Reason:

In the interest of highway safety and to ensure a satisfactory form of access to serve the development, and to ensure compliance with the terms of Policy MD2 (Design of New Developments) of the Local Development Plan.

12. The development hereby approved shall be operated in accordance with the Green Travel Plan, dated December 2020 contained within Appendix 3.10 Transport Technical Note of Volume III of the Environmental Statement, dated July 2022.

Reason:

In the interest of minimising vehicular movements and sustainability in compliance with Policy MD2 (Design of New Developments) of the Local Development Plan.

13. The total tonnage of wood waste treated at the energy plant shall not exceed 72,000 dry tonnes per annum, unless otherwise agreed in writing with the Local Planning Authority beforehand, and records of the amount of fuel processed shall be retained and made available to the Local Planning Authority on request.

Reason:

To ensure accordance with the terms of the application, to limit the impact of activities on the immediate area, and to ensure compliance with Policies MD2 (Design of New Development), MD7 (Environmental Protection), and MD20 (Waste Management Facilities) of the Local Development Plan.

14. The energy plant hereby permitted shall only process waste wood.

Reason:

To ensure accordance with the terms of the application, to limit the impact of activities on the immediate area, and to ensure compliance with Policies MD2 (Design of New Development), MD7 (Environmental Protection), and MD20 (Waste Management Facilities) of the Local Development Plan.

15. Deliveries to the site, and all other external operations, shall be restricted to the following hours: - Monday to Saturday : 07:00 - 19:00; and Sunday /Bank/Public holidays 08:00 - 16:00.

Reason:

To ensure accordance with the terms of the application, to limit the impact of activities on the immediate area, and to ensure compliance with Policies MD2 (Design of New Development) and MD7 (Environmental Protection) of the Local Development Plan.

16. There shall be no open storage of materials of any kind outside any approved buildings on the site unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure accordance with the terms of the application, to limit the impact of activities on the immediate area, and to ensure compliance with Policies MD2 (Design of New Development), MD7 (Environmental Protection), and MD20 (Waste Management Facilities) of the Local Development Plan.

17. The roller shutter doors in the feedstock building shall be kept closed at all times other than when deliveries are being received.

Reason

To ensure accordance with the terms of the application, to limit the impact of activities on the immediate area, and to ensure compliance with Policies MD2 (Design of New Development), MD7 (Environmental Protection), and MD20 (Waste Management Facilities) 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.

Having regard to Policies SP1 – Delivering the Strategy, SP8 – Sustainable Waste Management, SP9 – Minerals, SP10 – Built and Natural Environment, MG19 – Sites and Species of European Importance, 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, MD1 – Location of New Development, MD2 – Design of New Development, MD7 – Environmental Protection, MD8 – Historic Environment, MD9 – Promoting Biodiversity, MD16 – Protection of Existing Employment Sites and Premises, MD19 – Low Carbon and Renewable Energy Generation, MD20 – Assessment of Waste Management Proposals of the Local Development Plan 2011-2026 and its associated supplementary planning guidance Barry Development Guidelines, Biodiversity and Development, Economic Development, Employment Land and Premises, Parking Standards, Renewable Energy, Future Wales, Planning Policy Wales (12th Ed. February 2024), TAN 5, TAN 11, TAN 12, TAN 14, TAN 15, TAN 18, TAN 21, TAN 23, TAN 24, the proposed amendments are considered acceptable in relation to climate impact, air quality impact, human health, noise and vibration, landscape, ecology, waste, tourism, transportation and highway safety, flood risk, drainage, heritage, and residential amenity.

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.

2023/00033/FUL Received on 24 January 2023

APPLICANT: Biomass UK No. 2 Ltd., c/o Agent, -, -

AGENT: Mr Philip Murphy, 21, Soho Square, London, W1D 3QP

Land to the North of Barry Biomass Renewable Energy Facility, David Davies Road, Barry

Retrospective planning permission for external storage, vehicle turning and vehicle layover, and perimeter fencing for use in association with the adjacent renewable energy plant

REASON FOR COMMITTEE DETERMINATION

The application is required to be determined by Planning Committee under the Council's approved scheme of delegation because the application has been called in for determination by Cllr I Johnson and Cllr P Drake, the former citing the widespread public interest.

EXECUTIVE SUMMARY

The site is accessed from David Davies Road and is also adjacent to Woodham Road, at Barry Docks. It is occupied by an energy recovery facility described as the Barry Biomass plant, which comprises the three main buildings on the site, together with associated structures, infrastructure and hardstanding. It was occupied prior to that by a container storage and refurbishment operation. Vehicular access to the site is from Ffordd-y-Milleniwm, via Cory Way.

The planning application is made under s.73a of the Town and Country Planning Act (1990) and seeks retrospective approval for a hardstanding that is used for external storage, vehicle turning and vehicle layover, as well as its palisade perimeter fencing. These uses are in association with the adjacent energy recovery plant.

The application is accompanied by an Environmental Statement and several technical reports.

The consultation was undertaken in conjunction with application 2023/00032/FUL and, taken together, there were approximately 100 representations received, all objecting to the proposals. Many of these were objecting to the biomass facility than this proposal, specifically. There have also been representations from Jane Hutt MS, Cllrs P Drake, Cllrs E Goodjohn, C Iannucci, G Ball, E Davies-Powell, H Payne, Cllrs E Goodjohn, B Loveluck-Edwards, S Thomas Dyfan Ward and Barry Town Council objecting to the proposals. In addition, several representations have been received from local groups Friends of the Earth and Docks Incinerator Action Group (DIAG) objecting to the proposals. The prevalent reasons for objection were the impact on climate change, air quality and human health. The wide ranging issues have been summarised in the Consultations section and Representations sections of this report.

Having considered the above and having regard to all the submitted environmental information in accordance with Section 25(1) of the 2017 EIA Regulations, the application is recommended for APPROVAL subject to conditions.

SITE AND CONTEXT

The site is accessed from David Davies Road and is also adjacent to Woodham Road, at Barry Docks. The wider site is occupied by an energy recovery facility described as the Barry Biomass plant, which is designed to produce electricity for export from waste wood fuel. The facility comprises of the three main buildings on the site, together with associated structures, infrastructure and hardstanding. It was occupied prior to that by a container storage and refurbishment operation. Vehicular access to the site is from Ffordd-y-Milleniwm, via Cory Way.

The site is immediately adjacent to a haulage operator to the east, a row of Nissen hut style buildings to the west, Ffordd y Mileniwm lies to the north and Dock No.2 to the south. The wider Barry Docks area comprises a mix of industrial and commercial uses.

There are also residential areas nearby off Dock View Road (approx. 230m to the northwest) and there is a new residential development under construction off David Davies Road/ Cory Way (East Quay) located approx. 100m to the west.

The facility occupies the site area as shown on the location plan accompanying the Environmental Statement, as shown on the plan and aerial photo extracts below.



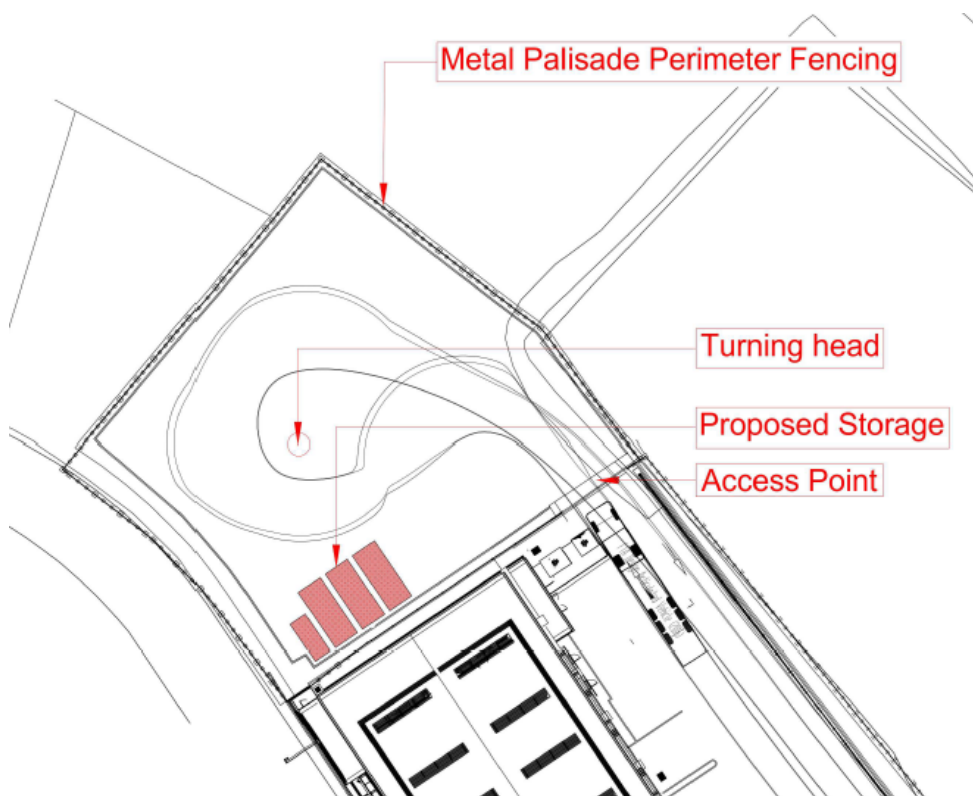


The facility occupies a greater site area than that of planning permission 2015/00031/OUT, as additional areas of land are incorporated into the site north of it and at the south eastern corner. This application is for retention of development in the northern area only, as described in greater detail below.

DESCRIPTION OF DEVELOPMENT

The planning application is made under s.73a (2) of the Town and Country Planning Act (1990) and seeks retrospective approval for a hardstanding that is used for external storage, vehicle turning and vehicle layover, as well as its palisade perimeter fencing. These uses are in association with the adjacent energy recovery plant.

The storage element is, more specifically, for 1.no enclosed dust skip and 3.no roll-on/off skips. The site layout is shown below together with the HGV turning circle outlined over what is open hardstanding.



PLANNING HISTORY

1984/00348/FUL, Address: Woodham Road, No. 2 Dock, Barry Docks, Barry, Proposal: Proposed fenced off compound for the purpose of storage and distribution of solid fuel, Decision: Approved

1985/00215/FUL, Address: Fisher Containers Limited, No. 2 Dock, Barry Docks, Barry, Proposal: New extension to be used as storage facilities, Decision: Approved

1985/00574/FUL, Address: Woodham Road, North Side, No. 2 Dock, Barry, Proposal: The land will be enclosed by a security fence and used for the storage of car trailers, such as touring caravans, boats etc., Decision: Approved

1987/00821/FUL, Address: Woodham Way, Barry Docks, Proposal: Construction of plant store, Decision: Approved

1994/00222/FUL, Address: Fisher Containers; Partners, David Davies Road, Barry Dock, Barry, Proposal: Erection of extension to existing steel framed building for use as timber drying store, no external works are proposed, Decision: Approved

2008/00828/SC1, Address: Land at Woodham Road, Barry Docks, Proposal: Proposed industrial building and installation of 9MW Biomass Gasification Plant to generate electricity from reclaimed timber, Decision: Environmental Impact Assessment (Screening) - Not Required

2008/01203/FUL, Address: Land at Woodham Road, Barry, Proposal: Erection of new industrial building and installation of 9MW fuelled renewable energy plant, Decision: Appeal Allowed.

2010/00240/FUL, Address: Land off Woodham Road, Barry, Proposal: Erection of new industrial building and installation of 9MW wood fuelled renewable energy plant, Decision: Withdrawn

2014/01065/NMA, Address: Land at Woodham Road, Barry, Proposal: Modification to Sunrise Renewables planning permission 2008/01203/FUL, Decision: Withdrawn

2015/00031/1/CD, Address: David Davies Road, Woodham Road, Barry, Proposal: Discharge of Conditions 6-Waste Handling, 7-Sample of Material handling, 8-Site Contaminations, 10-Means of enclosure, 28-CEMP, Decision: Approved

2015/00031/1/NMA, Address: Barry Biomass Renewable Energy Facility, David Davies Road, Barry. Proposal: Non-material amendment - addition of 1) Lean-to structure adjacent to the Fuel Reception Building, 2) Emergency Diesel Generator and Tank and 3) Fire Kiosk. Planning approval 2015/00031/OUT for a wood fired renewable energy plant. Decision: Not finalised.

2015/00031/2/CD, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Discharge of Condition 13-Sustainable Drainage. Outline application for a wood fired renewable energy plant at David Davies Road, Woodham Road, Barry, Decision: Withdrawn

2015/00031/3/CD, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Discharge of Conditions 11, 12, 20 and 29. Outline application for a wood fired renewable energy plant at David Davies Road, Woodham Road, Barry, Decision: Withdrawn

2015/00031/4/CD, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Discharge of Condition 17. Outline application for a wood fired renewable energy plant at David Davies Road, Woodham Road, Barry, Decision: Withdrawn

2015/00031/5/CD, Address: Barry Biomass Energy Centre, Barry Docks, Woodham Road, Barry, Proposal: Conditions 5, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 25; 29 of Planning Application 2015/00031/OUT: Outline application for a wood fired renewable energy plant, Decision: Subject to outstanding non-determination appeal.

2015/00031/OUT, Address: David Davies Road, Woodham Road, Barry, Proposal: Outline application for a wood fired renewable energy plant, Decision: Approved

2015/00655/FUL, Address: Land off Woodham Road, Barry, Proposal: Erection of a new industrial building and the installation of a 9mw wood fuelled renewable energy plant, Decision: Withdrawn

2016/00187/RES, Address: Biomass UK No. 2 Limited, David Davies Road, Woodham Road, Barry, Proposal: Approval of the landscaping of the development condition 1 of the outline 2015/00031/OUT, Decision: Approved

2016/00457/FUL, Address: David Davies Road, Barry, Proposal: Erection of CCTV camera - 6m high lattice structure , Decision: Approved

2017/00262/FUL, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Erection of the following site services, plant and machinery: (1) Reception Building Conveyor Cover; (2) Reception Building Power Packs; (3) Reception Building Conveyor Cover; (4) Reception Building Conveyor Screening Tower Structure; (5) Fire System Control Kiosks x 6; (6) Fire Water Tank; (7) Fire Water Pump House; (8) ACC Ancillary Equipment Structure; (9) Emergency Generator; (10) Diesel Tank and (11) Process Building Plant Room With Ancillary Air Blast Coolers, Decision: Withdrawn.

2017/01080/FUL, Address: Barry Port Biomass Plant, David Davies Road, Barry, Proposal: Variation to condition 5 of planning permission 2015/00031/OUT to include fire tank and building as well as relocation of parking, Decision: Withdrawn.

2021/00695/FUL, Address: Barry Biomass Facility, David Davies Road, Barry, Proposal: A retrospective (S73A) planning permission for the erection and use of a cylindrical fire water tank at its biomass fired renewable energy generation facility at the Barry Docks, Decision: Not Finalised.

CONSULTATIONS

Jane Hutt MS corresponded on behalf of constituents and queried delays in publishing information on the planning register. The following questions from constituents were asked:

On 17th October 2023:-

“the Environmental Statement and further information requested by the local authority has to cover all relevant (material) environmental matters. There's no doubt that "net-zero" and the ability of the plans to meet WGovt policy on it come under that. We obtained a WGovt response that this has to apply to incinerators (attached), which the VoG posted on file in July..

The company has not responded and is unlikely to unless the VoG requires it (under EIA Reg 24), as they pressed in July for the Council to proceed to determination in July that no further issues had come up.

You would realise that it's not an easy issue, for it requires the company to specify the measures they plan to extract (CCS) from the emitted gases the immense ~150 000 tonnes CO2 per year that they propose to discharge to the atmosphere, or otherwise measures to offset them. You might have expected NRW to flag up this issue, but their response in March did not (it covered only the flooding issue in addition approving the rest in their response to PEDW). Policy has developed, but it appears NRW won't add "net-zero" to their issues until the Minister instructs them to do so.”

On 26th October 2023:-

“The Vale Council has the responsibility to ensure the relevant information on mitigation of CO2 is covered via the EIA process. The Planning Committee could not impose a planning condition until they know if it's feasible for the Barry Biomass incinerator to comply with net-zero. It's likely to require extra physical infrastructure on which there would be planning constraints.

Whether or not it is feasible, the potential for mitigation of the CO2 emissions has to be added to the Environmental Statement. The Welsh Government letter makes it clear that net-zero requirement applies to CO2 emissions, not those offset by some accounting process. Total CO2 emissions are required under the EIA Regs, while Aviva-Biomass give just their disputed carbon-negative calculations and say only they will "explore" using the waste heat and CCS technology in future.

The is whether mitigation towards net-zero is achievable on this site with this plant. Would you therefore press the Council to ask the company for this EIA-necessary information. To give the issue the importance it requires, they could seek the necessary information formally, via a EIA Reg.24 Notice?"

Cllr P Drake objected and requested it should be brought before Planning Committee.

Cllrs E Goodjohn, C Iannucci, G Ball, E Davies-Powell and H Payne (Cadoc Ward) submitted a joint statement stating planning permission should not be granted. The statement considered several topics, summarised below:-

- Ground Conditions – questioned rationale for scoping topic out of the ES.
- Construction emissions – questioned use of approximate distances rather than site data for trip distance estimations (av. 300km HGV and 50km staff).
- Energy offset – states facility energy output is poor compared to current renewables. Offset calculation does not consider when the plant ceases power.
- Noise impact – agree with finding of minor adverse effect but questions whether mitigation measures will be sufficient to protect amenity of residents.
- Air quality – agree with findings inc. Nitrogen Dioxide increase of 3.5-6% for most receptors, dioxin and furan increases of 1-10%, abnormal chromium VI levels also found but not considered to be due to the facility. Mitigation measures good but still decreases are found in air quality.
- Population and human health – noted above, however perceived risk considerably underestimated noting the background of the site, planning history, and actions of the operator - and effects upon the population are cumulative.
- Landscape and visual impact – disagree with conclusions, it conflicts with new housing constructed nearby, and it out of line with the other industrial buildings in the area.

The principal concerns expressed in the letter were that there was no guarantee that the carbon emissions would be offset from energy production once operational, as the planning permission is not time limited and, moreover, the adverse impacts to the neighbouring population is not outweighed by the benefits. In addition, they considered that the 2015 planning permission is not an appropriate decision due to the (lack of an) Environmental Statement and the changes planning policy and in the energy sector since then.

Cllr Ewan Goodjohn also wrote separately objecting to the proposals, referencing the above statement.

Cllrs E Goodjohn, B Loveluck-Edwards & S Thomas (Dyfan Ward) submitted a joint statement stating planning permission should not be allowed to operate. The statement considered several topics, summarised below:-

- Soil Quality – questioned the scope of the assessment and lack of intrusive site survey data / data on nature of subsoils.
- Emissions/ pollution – 25 year assessment lifespan is estimated, conflicts with VoGC commitment to net zero by 2050, and WG/UK Gov commitments to the same.
- Negative impacts – states the benefit (contrasting negatively to single wind turbine in terms of generation capacity and low job creation) but does not outweigh the negative impacts to the local population.
- Environmental/ economic impact – uses an oil fuel burner to bring the facility up/ keep it to temperature (how often/much?) brought to the site via HGV.
- Traffic generation – unwelcome increase in HGV traffic on Cardiff Road.
- Estimation of impacts – large amount of data is based on estimation despite similar facilities operating elsewhere (bbc panorama).
- Visual impact – plant is an eyesore and not in keeping with the site and its surroundings.
- Concern over best practices – not providing ES in the past, details changed (use of diesel generator), increased stack size, non-compliance with approved plans.

Cllr Emma J Goodjohn also wrote separately objecting to the proposals, citing the above joint statement.

Cllr I Johnson queried the purpose of the application and procedural matters on behalf of residents and requested that it called-in to the Planning Committee because of the widespread public interest.

The Baruc, Castleland, Cadoc, Court, Dyfan, Illtyd, and Gibbonstown Ward Councillors were all consulted during the course of this application. The responses received to date have been summarised above.

Barry Town Council stated a strong objection and wished to re-iterate its previous observations of objection. They also requested that the Vale decline to determine the application for planning permission as an enforcement notice had been issued before the application was submitted (section 70C of the Town and Country Planning Act 1990).

In a subsequent response on 10th November 2023 they stated that following the decision to quash the Enforcement Notice they wished to reiterate their objections to the applications and use of the site for its current purpose as a whole. Their most pressing concerns were:-

Soil quality – there is hardly any reference or date regarding the subsoil in the Environmental Statement (ES). No sample core drills have been taken, despite asbestos contaminated soil being found during construction and taken to landfill. The area has a history of use by heavy industry.

Visual amenity – the plant is not aesthetically pleasing and is seen prominently and concerns were held regarding the wellbeing of the community occupying the new homes nearby. The Biomass is incongruous, towers over adjacent units and is out of place and not in keeping with the area.

Emissions/ Pollution – the plants 25 year lifespan is an estimate and it may go on producing emissions for many years after. It conflicts with the Vale of Glamorgan commitment to net zero by 2050. Offsetting these emissions would not prevent contamination and local air pollution. NRW has agreed their figure of 130,000 tonnes and Friends of the Earth put it at 160,000 tonnes.

Negative/ Nil impact – the levels of energy produced are very low in comparison to the cost, fear, stress and controversy. More energy can be produced by cheaper renewable resources, such as a single modern wind turbine.

Increased HGV Traffic on Cardiff Road, which is already busy.

Job creation – the low job creation is not an acceptable trade-off.

Estimation based content – a large amount of the Environmental Statement is based on estimation even though similar facilities exist. A recent BBC Panorama program has highly brought into question the environmental credibility of these facilities. There is no plan to reduce emissions during the lifetime of the plant. Data in the public domain demonstrates the amount of diesel consumed in other incinerators operated by the parent company, and this should be included in relation to human health and GHG.

Concern over best practice – not providing ES in the past, many details changed such as use of generator, increased chimney stack size, not following agreed planning and lack of solid data.

Noise assessment – there is no noise assessment relevant to the commercial businesses on Woodham Road. Queries are raised whether new residential buildings within 100m have been included. The noise analysis does not include the external conveyor. Relevant data from identical incinerators have not been released. ES noise reports do not take any or sufficient cognisance of wind direction.

Flood Risk and Surface Water Drainage – there is no flood consequences analysis. The attenuation tanks were calculated on the basis of the original site area and will not be sufficient to take water from the turning area and are further north. It is not SuDS compliant. Town water is wasted, rainwater not collected. It does not comply with TAN15.

Health and Safety – there is no report for the potential of accidents, it relies on the developers assertions they do not intent to have any. The ES fails to produce a health impact assessment.

Moratorium – there is one in place announced by Welsh Government against new incinerator projects but LPA have not taken this into account.

Natural Resources Wales stated that their concerns in relation to flood risk could be overcome by attaching a planning condition to the consent that secured finished floor levels (were set in accordance with Table 3-1 of Technical Note ref: 407.13039.00002. Their response considers the site as a whole and has been summarised in greater detail in the associated Officer's report for application 2023/00032/FUL.

VoGC Highway Engineer stated no objection. Their response to planning application 2023/00032/FUL requested that the parking and turning areas being laid out in accordance with drawings BRBM-HMA-ZZ-ZZ-DR-A-P300 Rev P01 and BRBM-HMA-ZZ-ZZ-DR-A-P200 Rev P01 (**see condition**).

VoGC Drainage Engineer initially requested MicroDrainage outputs and clarification as to the differences between the as-built drainage drawing in this application and a past version were provided, as well as an explanation of the difference between both the cover and invert levels shown in these plans. On receipt of this information, a further request seeking either justification for the modelling approach or that a more conservative approach was taken to modelling factors such as the rainfall volumes and the percentile of runoff entering the drainage system.

In response to this, there was further justification submitted by the applicant together with the results of a revised MicroDrainage modelling exercise.

In the latest response dated 8.12.23, the VoGC Drainage Engineer stated that they found the drainage details acceptable in principle and had no further comment to make. They also advised that they were in acceptance that the constructed development would not be subject to Schedule 3 of the Flood and Water Management Act (i.e. not require SAB approval).

VoGC Ecologist stated that in view of the populations of both Slow Worm and Common Lizard in the Barry Docks area a planning condition requiring the provision of a hibernaculum was requested. It was subsequently confirmed that the hibernaculum detail submitted was acceptable (**see condition**).

Shared Regulatory Services – no response was received specific to this application. There were responses received from them in relation to planning application 2023/00032/FUL, and the Environmental Statement which considered these two sites together. These comments have been summarised in the associated Officer's report for that application.

South Wales Fire and Rescue Service – no response was received specific to this application. Their response in relation to planning application 2023/00032/FUL, which also contained the Environmental Statement and technical documents which considered these two sites together, has been summarised in the associated Officer's report for that application.

Public Health Wales – no response was received specific to this application. There were responses received from them in relation to planning application 2023/00032/FUL, and the Environmental Statement which considered these two sites together. These comments have been summarised in the associated Officer's report for that application.

Docks Incinerator Action Group (DIAG) have submitted several representations and items of correspondence, which primarily question procedural matters, inaccuracies and deficiencies in the submission documents, and provide commentary on the merits of the proposals. These have been summarised below:-

- The application should be rejected (outright) because it is DNS (having a design capacity of over 11Mw).
- The expert reports provided by the applicant are not properly endorsed, and some contain disclaimers or caveats that undermine the independence and objectivity of their content.
- Appeal Statement of Common Ground: Questioned independence of Vale of Glamorgan Council and lack of disclosure of records relating to its production/ agreement, fails to acknowledge incineration, previous decisions/ approvals were unlawful, and the statement goes beyond its scope by dealing with non-factual information, a lack of engagement with other stakeholders.
- The ES has not been produced in accordance with the Wellbeing of Future Generations (Wales) Act 2015.
- The previous planning permissions (2010 & 2015) are unlawful: the failure to carry out EIA was contrary to the Regulation 3 of the EIA Regulations (which prohibited the grant of planning permission for EIA development without undertaking EIA).
- The development is not renewable as defined by the United Nations (energy derived from a natural sources that are replenished at a higher rate than they are consumed). Bioenergy is associated with negative environmental impacts related to large-scale increases in plantations, deforestation, and land-use changes.
- There is not enough fuel in South Wales to feed the incinerator and the site appears to have been chosen due its proximity to port facilities. This may result in the importation of waste from a distance, by sea. Incinerating recyclable material takes the material out of the recycling chain, releasing carbon, putting jobs at risk at sites such as Kronospan who use reclaimed wood in their products, contrary to the waste hierarchy. This is contrary to the proximity principle of dealing with waste as close as possible to where it arises (TAN 21 refers). Sister plants in Boston and Hull have converted to refuse derived fuel.
- Waste wood may not go to landfill as disposal is being phased out and it could be recycled rather than being used as fuel. Landfill also results in much slower release of greenhouse gases than the instant release through gasification.
- The Plume Plotter for Barry demonstrates that the plume is likely to impact all parts of Barry, using the same source material relied upon in the planning application.
- The stack height is too short, meaning the plume will drop onto urban areas. The stack has been designed to comply with IED (Industrial Emissions Directive) rather than optimised for human health. Local topography has not been accounted for including the swirling winds and tendency to inversions seen in Barry and the Docks basin. The correct diameter of the stack has not been confirmed and accounted for in the calculations. There has been no attempt to investigate how long receptors might be subjected to full pollution from the plume. Modelled plume effects from previous reports have been omitted in the ES.
- The ES fails to take into account local topography and conditions, including swirling winds and tendency to inversions seen in Barry and in the Docks basin. Downwash effects (height of housing compared to the stack) usually 30-40% of the emission height is questionable. Use of Defra background pollutant maps for Particulate Matter (PM2.5) is not appropriate as they include non-industrial and non-urban

- areas and so are either an average or a minimum. The background figure is nevertheless already 60% over the WHO guidelines (should not exceed 5 ug/m³).
- Pollutants released into the atmosphere: asbestos, cadmium, lead compounds have been identified at Pyrolysis plant locations. The source material could derive from various sources and may contain asbestos, carbon-based preservatives, paint chemicals, copper and it would not be economically viable to comprehensively test all fuel prior to use. The temperature variations inherent in the stop-go process from variable fuel feed consistency means there is a risk of dioxin generation.
 - No research or testing has been carried out to assess the potentially fatal chemical reactions that will occur from cross contamination with chemical releases from the Dow Corning and Hexion sites.
 - The EIA requirement to consider Best Available Technologies has not been met, as the appellant has stated the facility has been designed only to meet legal requirements and would only be adapted if these changed.
 - It is not understood how the facility has been designed with the capacity to retrofit Carbon Capture and Storage (CCS) technologies when the technology is yet to be perfected and it has been rejected as financially unviable.
 - Inconsistent with COP26 declarations (climate change).
 - The IEMA advice was to include in the EIA process a timetable for greenhouse gas reductions to meet reduction targets (not done).
 - Not all emissions are cleaned or filtered as claimed on the developer's website and the ES accepts pollutants escape with the plume.
 - The local demographics, being an area of high deprivation with a higher likelihood of pre-existing illnesses (such as breathing problems) have not been accounted for. There has been no attempt to investigate the impacts on vulnerable people, those with health conditions, or upon health services. Appendix 10.1 – the detrimental impact is brushed off as affecting a small number of people within a large populace. Risk perception not adequately dealt with as residents and health practitioners have not been consulted.
 - No obvious regard paid to the UN Convention on the Rights of a Child.
 - There should be effort made to engage children and young people in the EIA process.
 - Appendix 10.1 Health Risk Assessment is optimistic/improbable.
 - Various important matters are scoped out of the ES without agreement of PEDW.
 - The non-technical summary does not comply with IEMA guidance as it is too complex, directs readers to other parts of the document, and is partisan.
 - There has been a moratorium on 10Mw+ energy from waste plants brought in by Welsh Government, who also state that any new small scale facilities should only be allowable if the applicant can demonstrate a need, and these must also supply heat, and where feasible, be carbon capture and storage enabled and ready.
 - ES does not consider tourism and socio-economic impact (Barry is a tourist destination).
 - Risk of accidents not properly considered, noting the facility produces high pressure steam and presumably the syngas is also held under pressure. That is susceptible to build up when problems occur and it is understood there is no venting mechanism and vent stack. The latter would release toxic plumes.
 - The applicant has not submitted anything under DSEAR (Dangerous Substances & Explosives Act) and compliance with the act cannot be assumed. The incinerator is in a dangerous position in the dock area, where ships carrying COMAH material pass close by and the owners need to show that the COMAH arrangements are

fully up to date and take account of the additional domino effect. There is no plan to deal with a major incident.

- Problems occurred during testing in March 2018 which resulted in breaches of the permit and the problem was not rectified for some time.
- Fire Prevention and Management Plan (NRW permit) digresses from standards laid out in NRW Guidance Note 16, primarily due to a lack of quarantine space, water supply tank not large enough to cope with worst case scenario fire, water collection facilities not a sufficient size to deal with the amount of waste water from a serious fire, the building is not designed to accommodate compliance with minimum waste material stack sizes and separation distances, and the compensatory measures (a sprinkler system) within are not sufficient to mitigate the risk – resulting in increased risk of fire spreading quickly in the building and danger to firefighters tackling a fire, as well as a failure to dispose of the firewater without polluting the environment.
- The development is classed as highly vulnerable and TAN15 states this type development should not be located in the floodplain.
- The flood assessment work fails to include the flood levels used for the housing development to the south west (8.67AOD).
- There appears to be no discussion of the potential consequences of flooding (Section 7 TAN15) including the risk of accidents.
- The land at the south east corner of the site is not mentioned in the site description of the ES. The land further to the north also relates to the biomass site and has been overlooked and is not considered in the ES.
- LVIA states insensitively and incorrectly that Barry and receptors are ‘low value’ – the landscape should be enhanced.
- Alternative sites have not been genuinely considered (as required through EIA) because the development has been constructed by that point.
- The site should be repurposed for social purposes on account of the poor conduct of the appellant.
- The facility takes potable water and would send 4000lts to the sewer system every hour. There is greenhouse gas used up in the collection and processing of this water, which would then go to waste. It should be re-used. There is a local capacity issue with sewer system which this will not help, and the temperature of the water being disposed and pollutants it contains is not specified.
- The noise chapter of the ES does not appear to have considered the piling description while advising on construction noise.
- There is no indication that the surface water attenuation tanks have been designed with sufficient capacity to take cognisance of the extended site area.
- DIAG have been told (unsourced) that the commissioning process was supported by construction works and alterations to equipment and plant. It is claimed these were minor, but this is called into question. Further works have been carried out following litigation with the original contractor, and these may impact on technical reports and ES data.
- Climate change: Not all greenhouse gas is accounted for in the climate change chapter of the ES. The carbon impact from the use of water and use of diesel in energy generation operations is not considered.
- Noise assessment: The operation of the external conveyor is not reflected in the noise modelling. Further mitigation measures should be considered as an integral part of the EIA process not left to planning condition. The permit should not be relied upon as a means of mitigation. The impact on occupiers of the adjacent units should be considered as commercial, not industrial.
- Light pollution concerns have been raised by residents.

- Traffic congestion and related emissions
- Procedural matters, failures, and flaws by the applicant, NRW and Welsh Government relating to the Environmental Permit process.
- Incorrect statements by Vale of Glamorgan Council concerning the lawfulness of the 2010 and 2015 permissions and the need for EIA.
- Comments on VoGC Statement of Case for Section 174 Appeal:
- Comments relating to condition discharges.
- Comments relating to responses by Barry Town Council
- Comments relating to responses by NRW
- Comments relating to responses by SRS
- Comments relating to responses by Friends of the Earth
- Comments relating to responses by Jane Hutt: Need for Civil Protection Plan upfront.
- Current reports from the Senedd Climate Change, Environment, and Infrastructure Committee seem to point towards the Welsh Government adopting the limits on pollution set down by the World Health Organisation rather than limits NRW rely on for permitting. The ES does not address this ambition.
- There were concerns raised about meeting between the applicant and Officers from VoGC due to apparent secrecy and lack of independence/ bias, apparent persuasion by Officers of consultee's views to benefit applicant.

Friends of the Earth (Barry and Vale) have submitted various correspondence questioning procedural matters, inaccuracies, and deficiencies in the submission documents. These have been summarised below:

- The application should be rejected (outright) because it is DNS (having a design capacity of over 11Mw)
- Queried the checks undertaken during validation and completeness of the ES.
- The presentation of the documentation is confusing to the public (high file sizes, splitting of documents).
- Quod should not manage the appeal whilst promoting the planning applications (reason unspecified).
- The chief officer of the Vale Council incorrectly referred to the ES as an EIA.
- The ES is deficient in relation to waste planning and flood consequences – (i.e. should be considered as topic areas and a commensurate level of information provided). No scoping agreement exists.
- The submitted flood information is also deficient because it is not an independent expert document, SLR have not reassessed the drainage requirement from peak rainstorms and the GHD document submitted in 2017 does not apply to local peak rainstorms as the calculated intensity of the storm event is not enough, the northern development area has not been considered, it has not been demonstrated that the mains water supply can be provided and is adequate to fill the tank, the storage of firewater and storage of its run-off is not covered, the requirement of the sprinkler system ignored, and the drainage design fails to consider the need to dispose of the firewater.
- NRW's letter 21 March details that flood levels exceeding the tolerable limits of TAN15 on the lower part of the site and suggested getting professional advice on consequences.
- Welsh Government net-zero policies apply to incinerators. Quod have stated they are willing to comply with net-zero and carbon capture. They should explain or

update their carbon offsetting claims in the current context and outline practical options for carbon removal, relating to transition to net-zero.

- Queried pre-application discussions/ correspondence with the applicant.
- Stated Council meetings with the applicant are contrary to the openness principle.
- Air Quality Assessment is outdated and criteria for assessment has changed.
- No-risk is a requirement in waste planning whereas the EPHS response says the impact on public health should be minimal.
- Waste Planning Assessment is outdated and TAN15 requires an updated WPA.
- Further environmental information has been submitted and no consultation has taken place.
- Noise assessment deficiencies: The Cory Way site chosen does not meet the sensitive residential receptor criterion and the closest residence on David Davies Road and commercial at Woodham Road should be used. In view of the SRS comment that modification of the structure or insulation may be needed if Quod's noise modelling is required to meet the +4dB criterion, this information should be provided. It is implausible that the Dockside is +2dB noisier than Dock View Rd (night time), as a 7-8dB increase is unacceptable mitigation is necessary through the EIA process (not by planning condition).
- Net Zero: this policy applies to real CO2 emissions and grid offsets don't apply. They have to plant trees or carbon capture (CCS).
- The ES should contain details of the applicants progress in exploring CCS and heat offtake.
- Clean Air Bill has passed in the Senedd and the legal excuse no longer applies. Waste legislation requires disposal without harm to health. Quod's assessments assume old limits suffice to judge no harm despite WHO evidence of harm below these limits. They are also required to consider PM2.5.
- No scoping was carried out for the ES.
- There is extra land in the south east corner in the ES not covered in the 2010 and 2015 plans and there are grounds for believing it is contaminated and The Contaminated Land Statutory Guidance for Wales comes into play. The EIA has to be informed by a risk assessment of the potentially contaminated land.

REPRESENTATIONS

The neighbouring properties were consulted on 22nd February 2023 and 23rd August 2023 and site notices were displayed on 22nd February 2023 and 24th August 2023. The application was also advertised in the press on 23rd February 2023 and 7th September 2023.

The consultation was undertaken in conjunction with application 2023/00032/FUL and as some of the issues are inter-related, these are summarised together below. The responses from Friends of the Earth and DIAG are summarised separately in the consultation section of the report, above.

There were 98 representations received all objecting to the proposal. The grounds of objection have been summarised below:

Impacts on human health and well-being:

- Air pollution
- Release of particulates including toxins and carcinogens

- Increased noise pollution, odour, and dust

Climate change:

- Increased carbon emissions
- Contrary to green wales agenda
- Waste wood will require importation and/ or transportation over long distances.

Visual impact:

- Inappropriate siting
- Detrimental visual impact
- Impact on private views

Transportation:

- Increased traffic congestion and HGV trips
- Parking congestion
- Inadequate emergency access

Impact on neighbouring (non-residential) sites:

- Impact on nearby hazardous (COMAH) sites

Contamination:

- Water pollution
- Production of hazardous waste

Drainage and Flood Risk:

- Site at risk of flooding
- Detrimental impact on public sewerage and drainage systems

Deficiencies in supporting documentation, alleged inaccuracies, and false statements:

- Associated development at Dock No.2/ Berth 31 not considered
- Deliberate splitting / omission of related development to avoid consideration and scrutiny of the cumulative impacts
- There would be no or little economic benefit from the plant
- Local weather conditions and topography not properly taken into account (plume would behave differently than modelled)
- Pulses of pollution not considered/ over-reliance on average levels/ emissions data
- Stack is too short, and narrowness/ exit velocity not properly considered
- Nitrogen Dioxide background level highly variable (developer has cherry picked favorable results).
- It is not possible to filter the smallest particulate matter (inc. toxins, carcinogens)
- Failure to provide Waste Planning Assessment
- Night time (background) rail noise has reduced since closure of Aberthaw
- No traffic assessment

- Flood risk data out of date
- Bias/ prejudicial actions by Vale of Glamorgan Council
- Vale of Glamorgan council lack sufficient expertise to examine this application
- Failures by Natural Resources Wales (NRW) to review the impacts of the development correctly during the permitting process

Procedural matters:

- Should be defined as Development of National Significance (DNS)
- It is contrary to a moratorium on energy from waste plants
- Consultation period too short

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 SP8 – Sustainable Waste Management
 POLICY SP9 – Minerals
 POLICY SP10 – Built and Natural Environment

Managing Growth Policies:

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

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
 POLICY MD16 - Protection of Existing Employment Sites and Premises
 POLICY MD19 - Low Carbon and Renewable Energy Generation
 POLICY MD20 - Assessment of Waste Management Proposals

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 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 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 16 – Heat Networks

- Large-scale mixed-use development should where feasible have a heat network with a renewable / low carbon or waste heat energy source.
- Relevant planning applications should include an energy masterplan and an implementation plan if applicable.
- Barry identified as a district heat network priority area.

Policy 17 – Renewable Energy

- Support for developing renewable and low carbon energy from all technologies and at all scales.
- Significant weight to the need to meet Wales' international commitments and the target to generate 70% of consumed electricity by renewable means by 2030 to combat the climate emergency.

Policy 18 – Renewable and Low Carbon Energy Developments of National Significance

- Sets out the criteria for assessing such proposals and refers to the need to consider the cumulative impact of existing and consented renewable energy schemes.

Policy 19 – Strategic Policies for Regional Planning Strategic Development Plans should embed placemaking as an overarching principle and should establish for the region (and where required constituent Local Development Plans):

9. a framework for the sustainable management of natural resources and cultural assets;
10. ecological networks and opportunities for protecting or enhancing the connectivity of these networks and the provision of green infrastructure; and
11. a co-ordinated framework for minerals extraction and the circular economy, including waste treatment and disposal.

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.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 12) (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,

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 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 14 – Coastal Planning (1998)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 21 – Waste (2014)
- Technical Advice Note 23 – Economic Development (2014)
- 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:

- Barry Development Guidelines
- Biodiversity and Development (2018)
- Economic Development, Employment Land and Premises (2023)
- Parking Standards (2019)
- Renewable Energy (2019)

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
- Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on the Council with respect to any buildings or other land in a conservation area, where *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 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.
- Landfill Directive 1999
- Waste Framework Directive 2008
- Land-Use Planning & Development Control: Planning For Air Quality (2017)

- Welsh Government: Clean Air Plan for Wales (2021)
- Welsh Government: Noise and Soundscape Action Plan 2018 – 2023
- South East Wales Regional Plan (March 2004)
- Review of the South East Regional Waste Plan (September 2008)
- Waste Planning Monitoring Report: South East Wales (2013 to 2016)
- Vale of Glamorgan Corporate Plan 2020 – 2025
- Vale of Glamorgan Council Climate Change Challenge Plan 2021-2030
- Welsh Government: Building Better Places (2020)
- Welsh Assembly Government Guidance: Towards Zero Waste – One Wales: One Planet. The Overarching Waste Strategy Document for Wales (June 2010)
- Welsh Government: Strategic assessment for the future need for energy from waste capacity in the three economic regions of Wales (2021)
- Welsh Government: Prosperity for All: Low Carbon Wales (2019)
- Welsh Government: Beyond Recycling: A strategy to make the circular economy in Wales a reality (2021)
- Cardiff Capital Region Energy Strategy (2021)
- Climate Change (Wales) Regulations 2018
- British Energy Security Strategy (2022)
- The Planning and Energy Act (2008)
- The Climate Change and Sustainable Energy Act (2006)
- Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021
- Department for Energy Security and Net Zero: Biomass Strategy 2023

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 and Environmental Impact Assessment:

This proposals within this planning application are considered to be a change or extension to a Schedule 1 project, as defined by the Environmental Impact Regulations Wales (2017) (EIA Regulations).

The scale of change does not fall within those described in Schedule 1 of the EIA Regulations, but may fall within category 13(a) of Schedule 2. The corresponding threshold is whether the development as changed or extended may have significant adverse effects on the environment.

The matters relating to its completeness and scope are discussed in the Officer's report for application 2023/00032/FUL.

This application is submitted under section 73a of the TCPA. There has not been planning permission granted for this development or any related development on this specific part of the site. The issues that relate specifically to the energy plant, such as its emissions and climate impact (among others) are discussed in greater detail within the Officer's report for application 2023/00032/FUL. Matters which are relevant specifically to this area of the site are discussed in turn, below:-

Drainage

There are drainage details contained in the Flood Risk and Drainage Technical Note (July 2022) and these have been supplemented with the submission of a catchment plan and MicroDrainage outputs. The technical documents and modelling account for the additional land contained in this part of the site. The details illustrate that surface water is captured by the on-site system with attenuation storage and discharges to an existing surface water drain near the site entrance. These have been reviewed by the Council's drainage Engineer, who considered them acceptable in principle. The topic is discussed in greater detail within the Officer's report for application 2023/00032/FUL. The drainage system serving this part of the site is reflected in the catchment area of the model and does not connect to the main (a combined) sewer. It is recommended the associated conditions for the above application are replicated (**see condition 2**).

Ground Conditions

The application is accompanied by a document titled Technical Review: Ground Conditions (July 2022) by SLR. It is a report outlining a peer review of contamination reports previously submitted and discharged under Condition 8 of planning permission 2015/00031/OUT. These documents are held under application reference 2015/00031/1/CD and were approved prior to commencement in 2015. The approved reports contained detailed evaluation, mapping, and (intrusive) investigation of the site. There were areas of asbestos contamination found but no others of concern were found. The verification report details that 28 loads of asbestos impacted soils were removed to landfill, where concentrations were found to be below 0.1%. No elevated fibre concentrations were recorded.

These reports did not consider the land subject of this application, noting they were outside of the application site boundary. The SLR report considers this matter and concludes that the site conditions on this, relatively small, parcel of land would be substantially the same as the main application site and any residual risk is any contaminant if present is unlikely to present a risk of any adverse impact.

Ecology

There is an Ecology Technical Note (March 2022) submitted with the application and this was later supplemented with a letter from the consultants SLR dated August 2022. The technical note identifies designated ecology sites within 15km of the site. It also identifies that there are records of amphibians and reptiles in the Barry Docks area. There were no records of protected flora or fauna on the application site.

The local records of rough mallow, a plant protected under Schedule 8 of the Wildlife and Countryside Act, is considered in greater detail in the report for planning application 2023/00032/FUL. There are local historic records of it but it was not found to be present during a site walkover in 2022.

Paragraph 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...”* Policy 9 of Future Wales also states that, in all cases, 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.

In response to consultation, the Council’s Ecologist recommended that in view of the populations of both Slow Worm and Common Lizard in the Barry Docks a hibernaculum was provided. There has been detail of a hibernaculum submitted which as subsequently been reviewed and is considered acceptable. Its provision can be required by condition and represents appropriate biodiversity net benefit (**see condition 3**).

Lighting

This area of the site is served by relatively insignificant lighting which does not significantly affect sky glow, dark corridors and habitats, or neighbouring premises and residential areas. It is considered acceptable.

Highways and Transportation

A Transport Technical Note (July 2022) is submitted with the application (Appendix 3.10 to the ES). Vehicular access to the site is from David Davies Road, via Cory Way and Ffordd y Mileniwm.

There has been an additional hardstanding area constructed on this site to facilitate HGV turning. It provides adequate turning space for HGV's and has been reviewed by the Council's Highways Engineers, who have not objected. It represents an improvement over the approved turning facilities and, if approved as recommended, this would secure that adequate HGV turning facilities are retained at the site. The hardstanding area could also facilitate parking overspill from the land to the south, if any spaces were lost or displaced from this area (parking is discussed in more detail in the officer's report for planning application 2023/00032/FUL). It is recommended that the area is secured for retention in conjunction with the biomass facility (**see condition 4**).

Visual and Landscape Impact

The ES contains a Landscape and Visual Impact Assessment (LVIA). The Officer's report contains a more in depth discussion of this document and the impact from the energy plant.

The development subject of this application has not resulted in a significant visual impact, noting there are no buildings and is of a very similar character to its surroundings.

EIA Regulation 25

In accordance EIA Reg. 25, this assessment has examined the environmental information submitted, and has enabled conclusions to be drawn on the significance of effects. For the reasons set out above, it is considered that the proposal would not have significant adverse effects on the environment and further it is considered that no monitoring is required, other than where reference in conditions below. The recommendation and proposed conditions are provided having regard to all of the environmental and associated information submitted, including the Environmental Statement.

RECOMMENDATION

APPROVE subject to the following condition(s):

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

Site Location Plan (BRBM-HMA-ZZ-ZZ-DR-A-P302)
Site and Elevations Layout (BRBM-HMA-ZZ-ZZ-DR-A-P300)
Site Elevations (BRBM-HMA-ZZ-ZZ-DR-A-P301)

Reason:

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

2. The foul and surface water drainage scheme contained in Appendix 3.14 of Volume III of the Environmental Statement, dated July 2022, shall be retained to serve the site, and managed and maintained thereafter in accordance with the management and maintenance plan contained therein. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason:

To ensure that the development is serviced by appropriate drainage and to ensure compliance with the terms of Policies MD2 (Design of New Development) and MD7 (Environmental Protection) of the Local Development Plan.

3. The Slow Worm and Common Lizard Hibernaculum detailed in the hibernaculum specification dated January 2024 shall be provided in full in accordance with the timings set out within 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.

4. The hardstanding area hereby approved by this planning permission shall be retained for use in connection with the biomass facility whilst the development remains in existence.

Reason:

To control the precise nature of the use of the site to that applied for and to ensure compliance with Policy MD2 (Design of New Development) 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.

Having regard to Policies SP1 – Delivering the Strategy, SP8 – Sustainable Waste Management, SP9 – Minerals, SP10 – Built and Natural Environment, MG19 – Sites and Species of European Importance, 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, MD1 – Location of New Development, MD2 – Design of New Development, MD5 – Development within Settlement Boundaries, MD7 – Environmental Protection, MD8 – Historic Environment, MD9 – Promoting Biodiversity, MD16 – Protection of Existing Employment Sites and Premises, MD19 – Low Carbon and Renewable Energy Generation, MD20 – Assessment of Waste Management Proposals of the Local Development Plan 2011-2026 and its associated supplementary planning guidance Barry Development Guidelines, Biodiversity and Development, Economic Development, Employment Land and Premises, Parking Standards, Renewable Energy, Future Wales, Planning Policy Wales (12th Ed.), TAN 5, TAN 11, TAN 12, TAN 14, TAN 15, TAN 18, TAN 21, TAN 23, TAN 24, the proposed amendments are considered acceptable in relation to drainage, ground conditions, ecology, lighting, highways and transportation, visual and landscape impact.

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.

2023/00895/FUL Received on 17 January 2024

APPLICANT: Mr Huw Llewellyn Great House Farm, Penllyn, Cowbridge, CF71 7RQ

AGENT: Ms Bethan Evans Unit 9, Oak Tree Court, Cardiff Gate Business Park, Cardiff, CF23 8RS

Great House Farm, Penllyn

Proposed change of use from agricultural use to glamping visitor accommodation comprising 3 yurts, separate kitchen units and conversion of the existing barn to a shower block and farm storage.

REASON FOR COMMITTEE DETERMINATION

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

- the application has been called in for determination by Cllr Champion due to the number of objections received.

EXECUTIVE SUMMARY

The application site is situated within and adjacent to the Penllyn Settlement boundary and forms part of an existing farm complex.

Planning permission is sought for a change of use from agricultural use to glamping visitor accommodation comprising 3 yurts, separate kitchen units and conversion of the existing barn to a shower block and farm storage.

The proposal includes provision of biodiversity enhancements and a landscaping scheme. An ecological survey accompanies the application which raises no concerns with regards to detrimental impacts on protected species.

Objections have been received from six neighbours, raising concerns such as harmful impact on the countryside, noise, reliance on the car due to no public transport etc. A full summary of neighbour concerns is included below.

The application is recommended for approval, subject to conditions.

SITE AND CONTEXT

The application site comprises part of an agricultural field, a barn and an existing farm access on the south eastern edge of Penllyn.

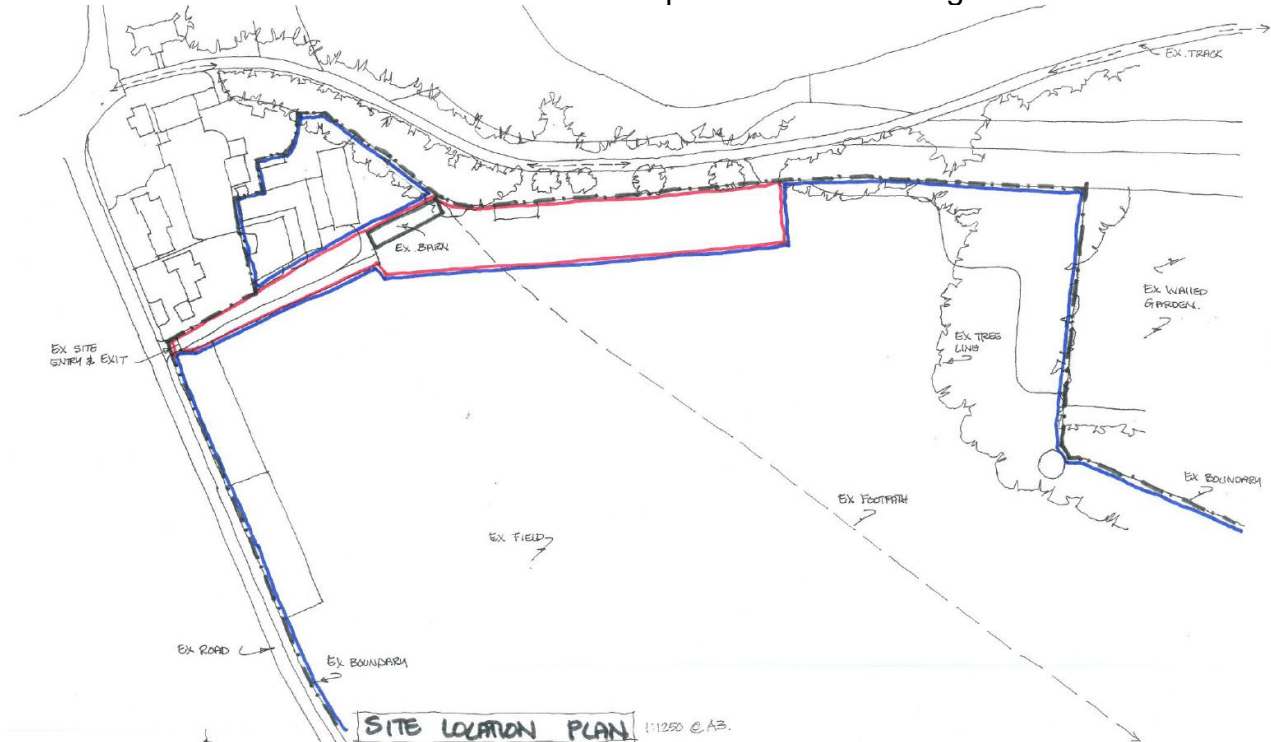
Part of the site access and the barn in the site are within the settlement boundary for Penllyn, but the rest falls outside of it, within the countryside. The site is within a Special Landscape Area, and the area outside the settlement boundary is within an area safeguarded for its limestone resources.

Part of the site has a predicted agricultural land classification of Grade 3a (good to moderate quality agricultural land), with the rest predicted as Grade 3b (moderate quality agricultural land).

There is a public right of way running across the site from north-west to southeast (shown in red below).

The trees to the immediate north of the site are covered by a Tree Preservation Order (Ref: 021 – 1962 – 01 – A17) and are also designated ancient woodland.

The area is considered to be within an area of potential habitat for great crested newts.



DESCRIPTION OF DEVELOPMENT

Planning Permission is sought for a proposed change of use from agricultural use to glamping visitor accommodation comprising 3 yurts, with separate kitchen /dining yurts and conversion of the existing barn to a shower block and farm storage.

The supporting documentation states that the yurts would be for use between March/April through to October and the yurts would be removed outside of this period. The main sleeping yurts would be approximately 5m in width and approximately 2.85m in height, whilst the kitchen yurts would be approximately 3.6m wide and approximately 2.55m in height. The yurts would be finished using materials such as felt, skins and natural materials.

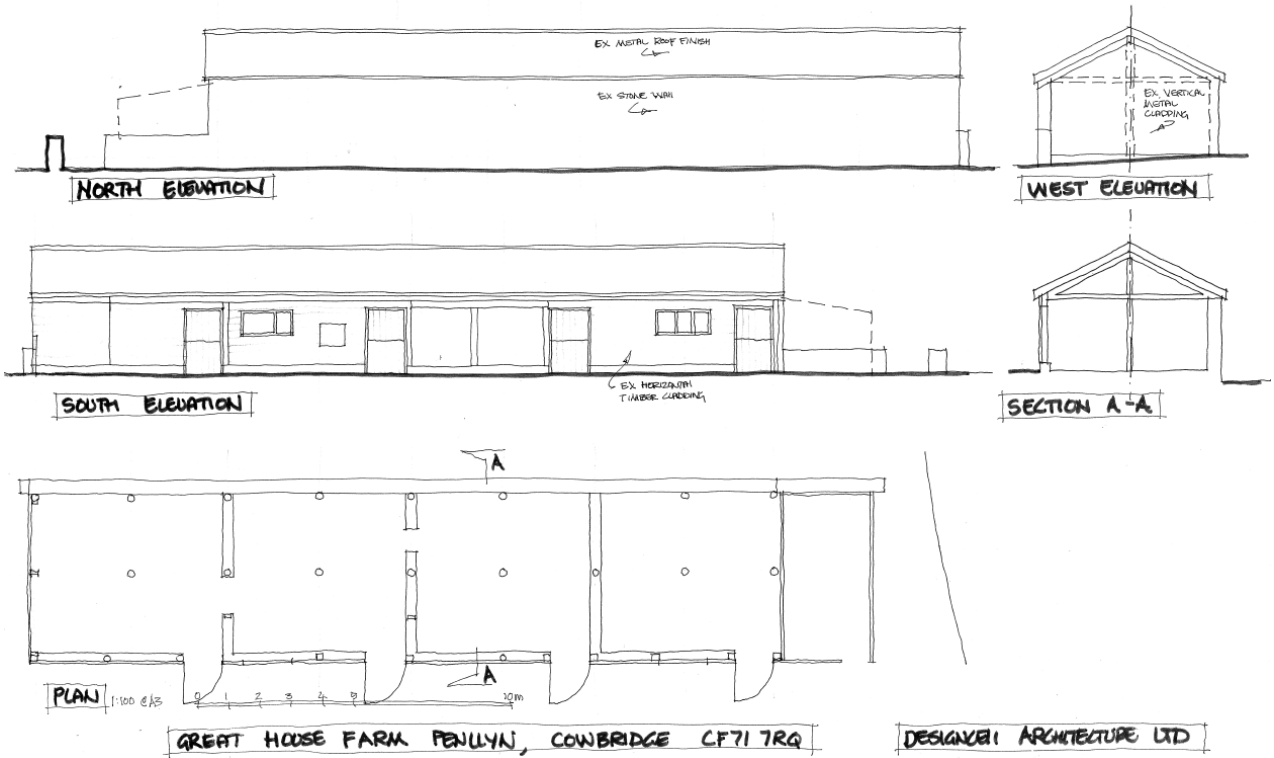
Parking for four spaces is proposed, constructed using gravel and the existing access is to be utilised.

The existing barn would be reconstructed / converted for storage and a shower block. The footprint remains the same, but the building would be reclad using timber cladding and metal roofing. Four flush rooflights are also proposed for light above the shower / toilets.

Extracts of the plans are provided below:

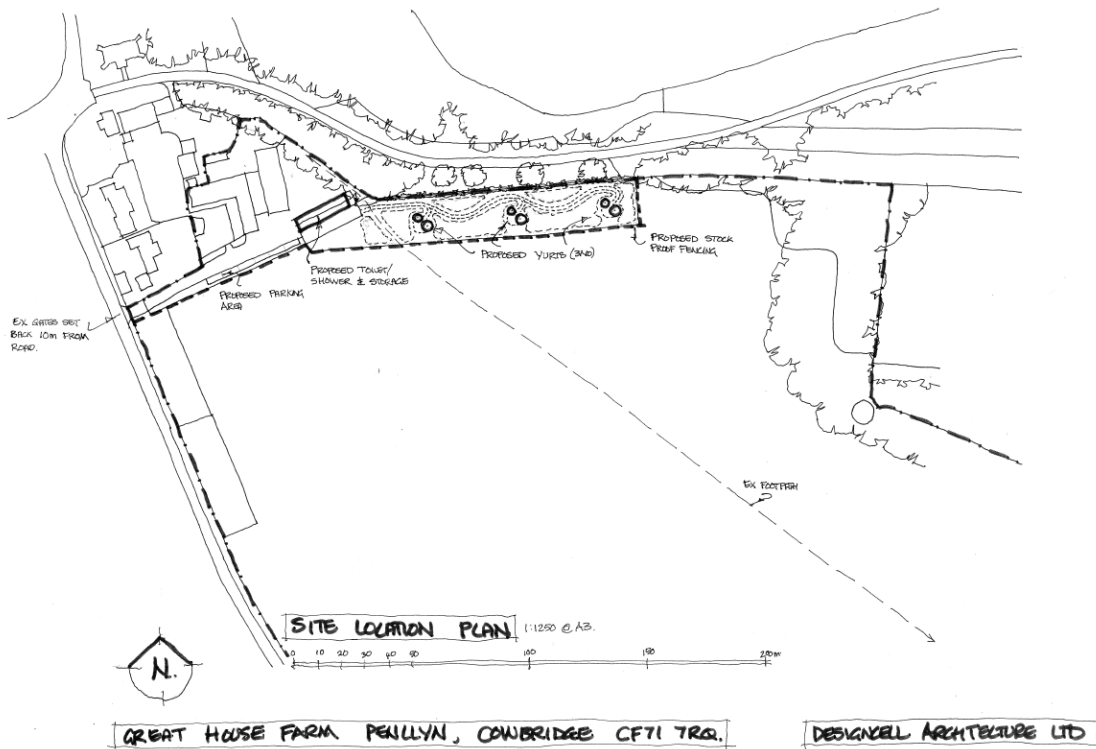
Existing

EX02

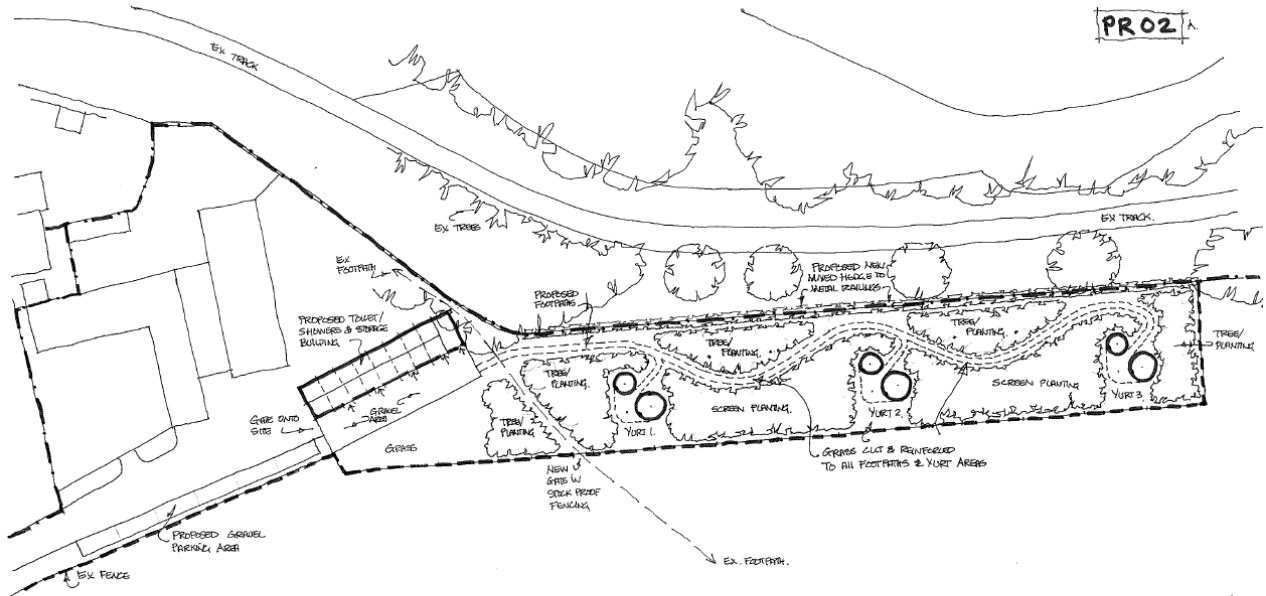


Proposed

PRO1



PRO2



NOTE:-

- 3RD SCHEDULE BUT BOUND TO BE LEAVED IN ADJACENT TREES. FINAL POSITION TO BE AGREED.
- A REPTILE HIBERNACULAR TO BE CREATED WITHIN THE GROUNDS OF THE DEVELOPMENT. POSITION TO BE AGREED.
- AREAS OF NEW WILDFLOWER MEADOWS TO BE FENCED.



SITE LAYOUT PLAN 1:500 @ A3

0 10 20 30 40 50m

GREAT HOUSE FARM PENLLYN, COWBRIDGES, CF71 7RA

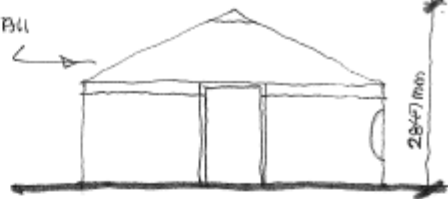
DESIGNCELL ARCHITECTURE LTD

DESIGNCELL ARC LTD.

PR 04



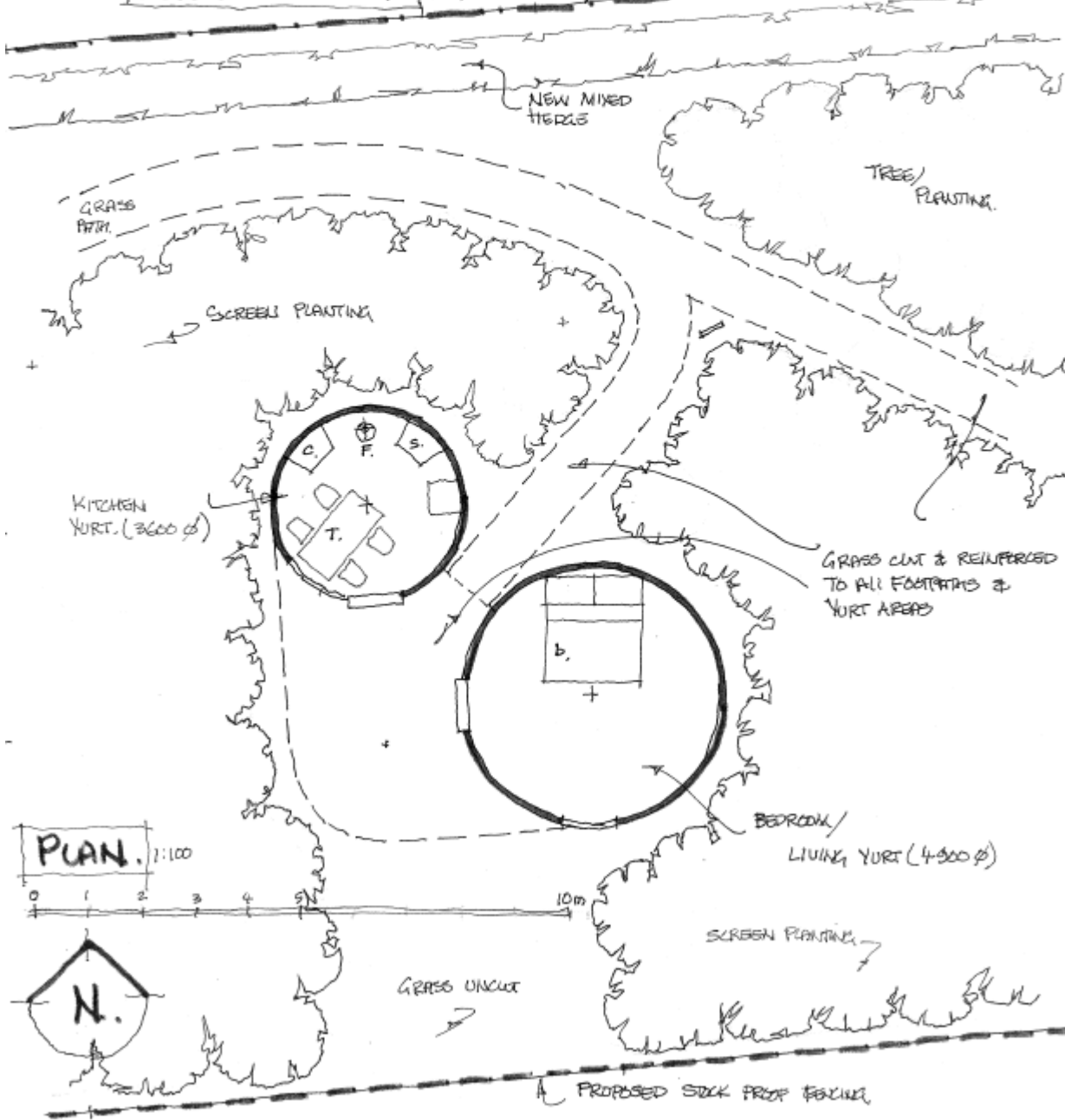
CIRCULAR STRUCTURE ALL ELEVATIONS SIMILAR.



FRONT ELEVATION
KITCHEN. 3600 mm ϕ (12 ft)

EX METAL FENCING

FRONT ELEVATION
BED/LIVING. 4900 mm ϕ (16 ft)

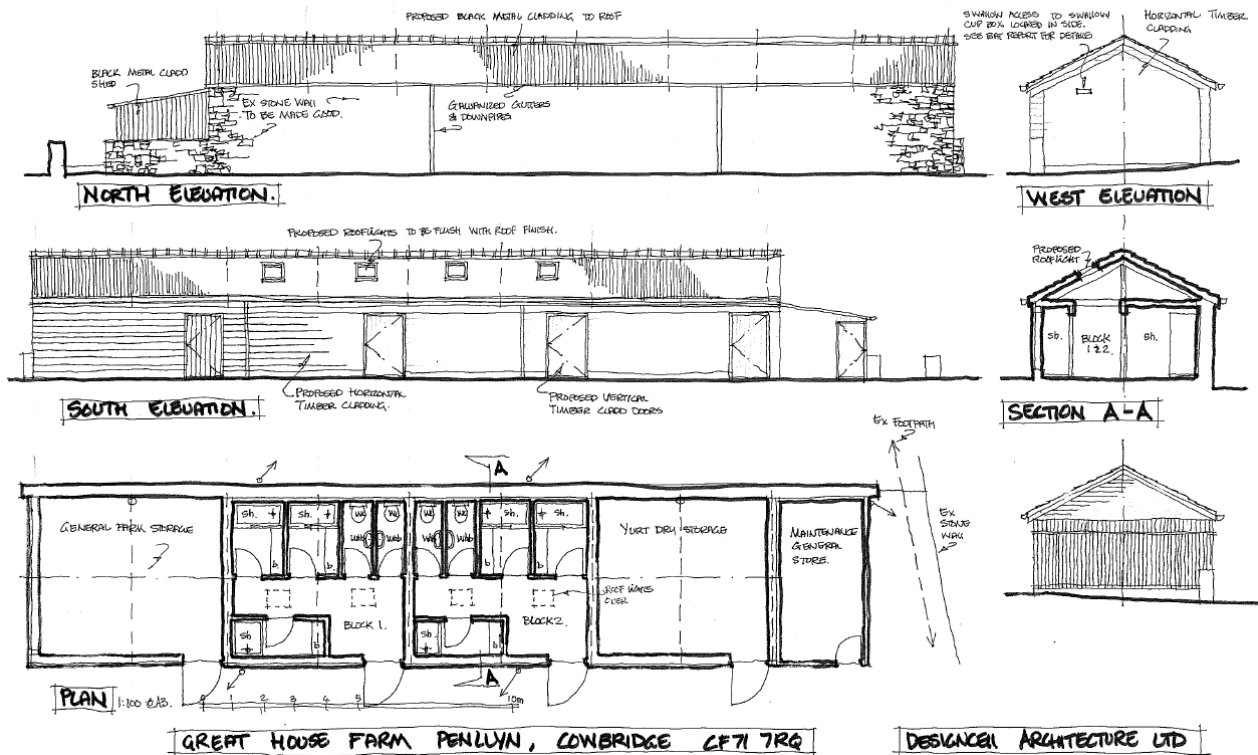


PLAN. 1:100



GREAT HOUSE FARM PENLLYN, COWBRIDGE CF71 7RQ.

PROB XBC



PLANNING HISTORY

1982/02194/OUT, Address: Part OS 3800, (Stone Croft), south of The Lodge, Penllyn, Proposal: Proposed to construct 2 dwellings, Decision: Approved

1983/00992/RES, Address: Part OS 3800, Penllyn, Proposal: Proposed erection of bungalow, Decision: Approved

1984/00433/FUL, Address: Part of OS 5400 - Penllyn, Proposal: Proposed erection of bungalow, Decision: Approved

1988/00914/FUL, Address: Stone Croft, Penllyn., Proposal: Proposed conversion of existing barn - outbuilding into garage store and playroom., Decision: Refused

2018/00489/FUL, Address: Stonecroft Cottage, Penllyn, Cowbridge, Proposal: Demolition of existing detached garage with erection of new pitched roof garage in same position, Decision: Approved

CONSULTATIONS

Penllyn Community Council commented to request that the views of neighbours are taken into account when determining the application.

Council's Highway Development Team were consulted and raised no objection to the proposals. The visibility splays are considered acceptable, in addition to the proposal to set the gate back 6m and to surface this area in a bound material. The Highways Authority have also requested that the turning area shown be retained in perpetuity.

Council's Public Rights of Way Officer commented, in summary, to state the following:

- A public right of way crosses through the property and that it should be available for use at all times. Should it require temporary closure, an Order is required from the Road Traffic Regulations Act 1984
- A gate is proposed for installation which will require a Highways Act 1980 s.147 application to the Council's Countryside Access Manager
- No materials should be stored on the footpath

Council's Drainage Section have commented to state that a SAB will be required and as such, an informative is required on any decision.

Council's Tourism & Marketing department were consulted and commented to support the application in principle. The plans submitted are welcomed and appropriate for this location within the Vale and the development of 3 yurts in this location is appropriate and will provide the space and surroundings that visitors would appreciate.

They have also asked for details such as a marketing plan and a management plan.

Council's Shared Regulatory Services :

Council's Pollution department were consulted, who commented to state that they had no objection or comment to make given its limited size and its relative distance from residential dwellings.

Council's Contaminated Land, Air & Water Quality department were consulted and commented to request a standard set of conditions and informatives, relating to contaminated land / importation of aggregates etc.

Dwr Cymru / Welsh Water initially commented to state that no connection to the sewer was sought.

However, amendments were made to the application which sought to connect to the mains sewer. Following re-consultation, they commented to state that they had no objection. A summary of their comments are as follows:

- No objections to foul connection
- Welcome the sustainable disposal of surface water
- Requested a condition that no surface water is to be disposed via the sewerage system

Council's Ecology Officer was consulted, who raised no objection. However, a summary of the comments are as follows:

- No protected species recorded in the vicinity though some are bound to occur such as hedgehogs
- Barn has the potential to be of interest to bats
- Ecological Services Bat Report recommends 3 Schwegler Bat Boxes affixed to mature trees away from the yurts

- Proposal drawing shows raised ridge tiles for bats which are not referenced in the report. Effectiveness of these will be dependent on the lighting. Best to stick to the Schwegler bat boxes.
- Support the provision for swallows in the proposal drawing
- Provision of a hibernacula as recommended in the Bat Report is also welcomed
- Consideration should be given to designating some of the grassland to revert to wildflower meadow
- Planning condition for lighting plan is required

Natural Resources Wales were consulted and initially commented to object to the proposal as it sought to provide a private sewage system (which is not supported by NRW in cases where there is access to mains).

They also commented to state that they had no adverse comments with regards to European Protected Species – Bats given the findings of the supporting document.

Following an amendment to the scheme, NRW commented to state that they had no further comments.

Open Spaces Society were consulted and to date, no comments have been received.

Cowbridge Ward Member, Cllr Champion, commented to request that the application is called-in for consideration at planning committee due to the number of objections from neighbours.

South Wales Fire and Rescue Services were consulted and commented to state that they had no objection and stated that the developer should consider the need for the provision of clean water for firefighting purposes and access for emergency firefighting appliances.

National Grid commented to state that the applicant should be aware that if a new connection or service alterations is required, a separate application to National Grid is required. Any works in proximity to National Grid apparatus must follow relevant legislation and ensure no underground cable depth and overhead cable heights are altered.

REPRESENTATIONS

The neighbouring properties were consulted on 18 September, 16 November 2023 and 17 January 2024.

A site notice was also displayed on 20 September, 23 November 2023 and 18 January 2024. The application was also advertised in the press on 21 September 2023.

To date, letters of objection have been received from 6 neighbours. Whilst some neighbours may have commented multiple times, they count as one neighbouring objection. A summary of the comments made are as follows:

- Caravan site rejected a few years ago
- 6 yurts and not 3
- No detail on drainage or water connection for the yurts

- Access is unsafe
- Road is narrow, poorly maintained and unlit
- No restriction shown on number of days each year it will be used
- Limited facilities in the village
- No public transport nearby
- Reliant on car
- Concerns regarding noise
- Concerns regarding impact on historical buildings and archaeology
- Privacy concerns due to walkers passing through the site
- Not an appropriate location
- Highly visible on the approach to Penllyn village
- Harmful impact on countryside
- Concerns regarding security of yurt users due to proximity of footpath
- Walking through campsite would not enhance walker experience
- Concerns that business is not viable and will form a foundation for a larger camp site
- Detrimental impact on health and wellbeing
- Applicant lives away from site
- No consultation carried out by applicant
- Examples given of other sites are not located in the village
- Sufficient accommodation nearby – unjustified development
- Concerns regarding impact on ecology
- Concerns regarding lack of detail on waste storage / collection etc.
- Concerns regarding odour / polluting from open fires, BBQ's etc.
- Concerns regarding maintenance and upkeep of yurts
- No management plan submitted
- Farm trailer currently stored on area for parking – this will be lost
- Not suitable for disabled users
- Parking will be visible from the road
- Certificate section inaccurate – applicant is not title owner
- Rubbish will attract vermin
- Concerns regarding fire risk
- Loss of privacy from walkers
- Poly tunnel is not old
- Hedgehogs, frogs and toads are a regular feature

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

Managing Growth Policies:

POLICY MG7 – Provision of Community Facilities
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
POLICY MG29 – Tourism and Leisure Facilities

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
POLICY MD11 - Conversion and Renovation of Rural Buildings
POLICY MD13 - Tourism and Leisure

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 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 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 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:

National planning policy in the form of Planning Policy Wales (Edition 12, 2024) (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
- Placemaking in Rural Areas
- The Best and Most Versatile Agricultural Land
- Development in the Countryside (including new housing)

Chapter 5 - Productive and Enterprising Places

- Economic Infrastructure (electronic communications, transportation Infrastructure, economic development, tourism and the Rural Economy)

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 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 10 – Tree Preservation Orders (1997)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 13 – Tourism (1997)
- Technical Advice Note 23 – Economic Development (2014)

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:

- Biodiversity and Development (2018)
- Conversion and Renovation of Rural Buildings (2018)
- Design in the Landscape
- Minerals Safeguarding (2018)
- Tourism and Leisure Development (2019)
- Trees, Woodlands, Hedgerows and 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 main issues to consider in the determination of this application are the principle of development, impact upon the visual amenities of the countryside, impact on neighbours and highway safety, parking, biodiversity provision and impact upon protected species.

Principle of Tourism Development

Policy SP11 (Tourism and Leisure) of the Local Development Plan states that proposals which promote the Vale of Glamorgan as a tourism and leisure destination will be favoured.

The policy goes on to say that favourable consideration will be given to proposals which enhance the range and choice of the Vale of Glamorgan's tourism and leisure opportunities, particularly through the provision of all year round facilities and a range and choice of visitor accommodation in appropriate locations; favour rural diversification and the local economy; and protect existing tourism assets and promote the sustainable use of the countryside and the Glamorgan Heritage Coast.

Policy MD13 (Tourism and Leisure) allows new or enhanced tourism proposals where the proposal is located within the key settlement, the service centre settlements, primary settlements and minor rural settlements; or forms part of a rural enterprise or farm diversification scheme or involves the conversion of an existing rural building in accordance with Policy MD11; or involves sustainable low impact tourism and leisure proposals in the countryside.

It is noted that the site of the proposed yurts is adjacent to the settlement boundary of Penllyn, whilst the barn proposed for conversion is within the settlement boundary.

The proposal would form part of a farm diversification scheme. Subject to details, the Council's Tourism and Leisure Development Supplementary Planning Guidance indicates that yurt accommodation can be considered as a form of sustainable low impact tourism. The proposal therefore complies with criterion 2 and 4 of LDP Policy MD13.

Many neighbouring comments refer to concerns regarding a lack of public transport or services nearby and the dominant use of cars etc. Whilst these comments have been considered, given the scale of the proposal, it is not considered that the use would result in an unacceptable impact in terms of car use, noting that by their very nature some tourism sites are in more remote locations. Nevertheless, the site is located partly within and adjacent to the settlement of Penllyn. Notwithstanding this, the tourism policies support low impact tourism in countryside locations and in this instance, the proposal is considered low impact.

As such, taking the above into consideration, given the low impact nature of the proposal and its nature as a farm diversification scheme, the proposal is considered acceptable in principle and in compliance with policies SP11 and MD13 of the LDP. However, the acceptability of other issues still needs to be considered, as set out below.

It should be noted that the application is made on the basis that the yurts would be in situ during March – October and will be removed following this period.

Given that the application has been made and publicised on this basis, the application is assessed on this basis. A condition would also be required, if planning permission is approved, to restrict the siting of the yurts on the land to these specified periods only **(Condition 3 refers)**.

The Council's Tourism Team sought further detail such as a Business Plan and how the yurts would be marketed. However this is considered to be a matter where the Tourism Team can provide direct advice to the applicant on the appropriate way to market and develop the business. Given the more modest scale of the proposal, such information is not considered necessary in this instance to support the planning application.

Notwithstanding this, it is nonetheless considered necessary to impose a condition to ensure that should the business cease to operate, the yurts shall no longer be erected **(Condition 17 refers)**.

Agricultural Land Classification

A section of the site has a predicted agricultural land classification of Grade 3a (good to moderate quality agricultural land). Policy MD1 requires that development on unallocated sites should not have an unacceptable impact on the best and most versatile agricultural land, including Grade 3a land.

It is recognised that the area of predicted grade 3a land affected would be approximately 0.1- 0.2 hectares in size. Ground works and surfacing associated with the development are considered to be modest in this area and as such, it is considered that the proposals would not have an adverse irreversible impact on this land. The proposal therefore is considered to comply with policy MD1 (criterion 9) and the development at the site would not prejudice any farming operations on the wider field.

Visual and Landscape Impact

In terms of localised visual impacts, the site is visible and is considered sensitive as it forms part of the undeveloped approach into Penllyn, which provides the setting to a number of listed buildings located in this part of the historic core of the village. In particular, the field enclosures fronting the road comprise of an estate stone wall which is

relatively low and offers views into the fields from the road. The yurts would therefore be visible. However, they have been positioned in the eastern corner of the field, in proximity to the field boundary and as such, are considered to be sensitively located to ensure no harmful impact on the character or appearance of the wider area, particularly noting that they will only be visible during March – October.

The yurts would be finished using natural materials and whilst the principle of such materials is considered acceptable, whilst these finishes are considered acceptable in principle, a condition requiring further details is considered necessary (**Condition 16 refers**) in order to ensure that the overall appearance is visually acceptable.

It is noted that substantial planting is proposed around the pitches for shelter. No detail of species etc. have been provided and as such, whilst a scheme of planting is considered appropriate, a condition seeking further detail on landscaping is required with particular preference to a native planting scheme (**Conditions 6, 7 and 8 refer**). With regards to the planting, in some instances, the introduction of such schemes can sometimes create an artificial appearance within the field. However, as aforementioned, the proposed scheme would be located in proximity to the boundary and in proximity to farm buildings. Therefore an appropriate scheme of native planting would not materially alter the appearance of the field when viewed from the road.

The proposal seeks to utilise the existing access and provide parking along the existing track. The site plan indicates that a gravelled area would be provided, which would be considered a suitable “informal” form of surfacing in this setting, that would not unacceptably harm the character of the area. Neighbour comments refer to the visibility of this element and consider it would have an unacceptable impact on the countryside. However, a track currently exists and as such, there is no objection to this to be utilised for parking, which would be more preferable than utilising another part of the field. Notwithstanding this, the level of parking proposed in this instance is considered of a modest scale and as such, would not detrimentally harm the appearance of the countryside and given its impacts would not be all year round.

The proposal also seeks to convert the existing barn, which is currently in poor condition and as such, substantial rebuilding and alterations are required to this element. However, the barn is located within the settlement boundary and as such, in principle this is considered acceptable. Concerns were initially raised with regards to the number of rooflights proposed on the barn and the use of slate for the roof which would result in a domesticated appearance to the building. The number of rooflights have been reduced and will be flush with the roof, and the overall roofing material has also been amended to a black metal cladding which is acceptable in principle and would relate well to the farmyard setting and have a more agrarian character. The remainder of the barn would be finished with timber cladding and all existing openings retained and finished with a timber frame. The footprint remains unaltered. It is therefore considered that provided a condition is added for further detail of materials (**Condition 4 refers**), the alterations to the barn are considered acceptable and would ensure a building that is in keeping with its agricultural setting.

The yurts would be separated from the neighbouring agricultural land by means of a stock proof fence, which is considered suitable in this setting and as such, would represent an acceptable low impact boundary treatment between the yurts and the remainder of the field. However, given the sensitive nature of the site and visibility, a condition ensuring the fencing is stockproof is required (**Condition 5 refers**). Some fencing, such as timber or

chainlink would have a domesticated and urban appearance and as such, this condition would ensure control over any proposals to alter the fencing.

The supporting documents make reference to photovoltaic panels – however, these are not shown on any of the accompanying plans and as such, any consent does not relate to such an addition.

Neighbour comments refer to concerns on the detrimental impact the proposal would have on users of the right of way, stating that the proposal would harm the user's countryside experience. However, the scheme is considered modest in scale and has been designed to incorporate a landscaping scheme, which would alleviate the impact of the development and such low impact tourism sites are considered to complement the character of the countryside.

Taking the above into consideration, the proposals are considered acceptable in terms of their visual impact and would comply with policies MD1 (Location of New Development), MD2 (Design of New Development) and MD5 (Development Within Settlement Boundaries) of the Local Development Plan.

The site is within the Upper and Lower Thaw Valley Special Landscape Area. Policy MG17 (Special Landscape Areas) of the Local Development Plan states that within special landscape areas, development proposals will be permitted where it is demonstrated they would cause no unacceptable harm to the important landscape character of the area. Given the proximity of the proposals to the farm buildings and on the basis that the proposals are considered as low impact for the reasons set out above, the proposal is not considered to cause harm to the important landscape character of the area.

Residential Amenity

Policy MD2 (Design of New Development) of the Local Development Plan sets out that development proposals should safeguard existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance.

The proposed yurts are located a sufficient distance from neighbouring properties to ensure no harmful overbearing impact or loss of outlook.

Neighbour comments have been received and are considered below.

With regards to noise and odour (such as from fires etc.), it is recognised that the addition of three units for holiday use would result in a degree of noise being generated. However, the scale of the proposal, i.e. three units, is considered modest and as such, the noise and odour levels attributed to such a proposal would not be considered unreasonable or cause a sufficient level of harm. Notwithstanding this, the Council's SRS department have raised no objection to the proposal and would be able to address any anti-social concerns with regards to noise or smoke / odour etc. should they arise in the future through their own statutory powers.

Neighbour concerns also relate to a lack of detail on waste / recycling collection. The agent has confirmed that large bins for waste and recycling would be situated within the storage area of the converted barns and smaller bins within each yurt. Waste and recycling will be collected weekly and as such, the proposal would not result in any

detrimental impact to neighbours in terms of rubbish, given that it would be appropriately managed .

Comments made regarding a loss of privacy to yurt users as a result of the footpath have been noted. However, a landscaping scheme is proposed which would provide some cover to users. Notwithstanding this, footpaths in the countryside are commonplace and as such, this is unlikely to raise concern, particularly given the nature of this type of tourism offering. Comments have also been received that raise concern regarding a loss of privacy from yurt users using the public right of way or walking past neighbouring properties. The public right of way is available to all and as such, the use of them by yurt users would be no different to other walkers and cannot be controlled. With regards to walking past properties, right of access or trespassing these matters are not material planning considerations and these are instead legal / policing matters. The grant of any planning permission would not in any way grant any occupier of the yurts any rights over and above those which any member of the public may have to access land.

Notwithstanding the above, it is considered necessary to impose a condition for a Management Plan, (**Condition 18 refers**) which would provide further clarification, on amongst other things, waste management and storage, contact details for the person responsible in the management of the site, details on how complaints will be dealt with and management of issues such as noise etc.

Highway Safety

The proposal seeks to utilise an existing access. Whilst the Highways Officer notes the proposal is to set the gate back from the highway, it should be noted that this is the existing situation. The proposal seeks to hard surface the area adjacent to the highway and as such, this will be conditioned (in line with the highway engineers requirements) to ensure no detrimental impact to the adjoining highway (**Condition 10 refers**). At present, this is an informal gravel surface which could result in loose material migrating onto the highway and the aforementioned condition would improve upon this scenario.

Four parking spaces are proposed to be provided for the yurts, which is considered acceptable, given the scale of the development. However, these will be conditioned and will be required to be made available prior to the beneficial use of the yurts and shall remain in for the lifetime of the use (**Condition 10 refers**). In addition, the area referenced for turning will also be conditioned to remain in perpetuity to ensure visitors can access and egress from the site in a forward gear.

Subject to the above compliance with conditions, the proposal is acceptable in terms of highway safety.

Public Right of Way

A public footpath crosses through the site, which is to be retained and is shown adjacent to an area of landscaping. The right of way has therefore been incorporated into the scheme and conditions / informatives will be added to any decision to ensure that they are retained for public use and that no materials are stored on them etc. Should temporary closure be required, the applicant must contact the relevant department.

Ecology

Policy MD9 is most relevant in respect of ecology matters, and it requires new development proposals to conserve and where appropriate enhance biodiversity interests. The Council's Biodiversity and Development SPG (2018) requires new development to provide ecological enhancements to promote biodiversity within the Vale of Glamorgan

An ecological survey accompanies this application with the findings of a phase 1 habitat survey. A summary of the findings are as follows:

- Species poor grassland is located at the entrance and running parallel either side with the entrance track.
- The strip where the Yurts will be located consists of species poor amenity grassland and a wooden post and rail fenced off disused poly tunnel which has a slightly longer semi-improved grassland growth.
- The majority of the development site consists of species poor amenity grassland
- To the north of the estate fencing is a well-spaced mature tree line. The trees sit outside of the proposed development boundary.
- A disused polytunnel is present in the field with many species such as bramble, hop etc.
- Inside the barn were two Swallows nests on a wooden plank suspended from the roof. The Swallow nests appeared to be old but an adjacent barn on the property was being regularly visited by an adult Swallow.

The proposals would result in the loss of amenity and semi-improved grassland and whilst some reptiles may be present within the stone walls / log piles etc. the report states that no further surveys are required, given the likely small population and the deterrent measures that can be carried out whilst clearing. No evidence of mammals using the site was found and whilst there is potential for bats and birds, no evidence was found (the aforementioned Swallow nests were not in use).

The survey has provided a number of recommendations to ensure no harm to species within the site, such as cutting grass in two stages, hand clearing the log pile outside of reptile hibernating seasons, work outside of bird nesting season etc. Such details should form part of an Ecology Protection and Management Plan which should be submitted by way of condition (**Condition 15 refers**). Subject to this the proposal is considered acceptable and would not detrimentally impact upon any protected species or habitat. The Council's Ecologist has not objected to the proposals, subject to the addition of a condition for details of a lighting strategy in order to ensure no harmful impact to bats or other protected species (**Condition 11 refers**). It should also be noted that the Council's Ecologist raised concerns on the position of the raised ridge tiles (which would provide a self-contained ridge nesting area for bats) on the converted barn as the use of these by bats would be limited due to lighting from the rooms below (i.e. showers, toilets etc.). These have now been removed from the scheme and bat boxes proposed – as per the Ecologist's recommendations.

Trees

The trees located to the north are protected by a Tree Preservation Order. The yurt structures would be positioned above decking that can all be removed in sections and as such, does not require any digging or disruption to the ground underneath to impact on any root protection area. It is therefore considered that this, in addition to the distance

between the proposed yurts and the trees would ensure no harmful impact to the trees. However, this will be conditioned so as to ensure no harmful impact (**Condition 9 refers**).

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'. The main policy changes which are of relevance relate to green infrastructure, net benefit for biodiversity and the protection afforded to trees.

Based on the nature of the proposal and its impacts, the proposal is not considered to give rise to an adverse impact upon existing green infrastructure provision on site owing to the scale and nature of the proposal. However green infrastructure will be enhanced under the requirements of Condition 15 set out above.

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 12, 2024) 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 proposal includes the addition of a swallow cup on the converted barn, 3 no. schwegler bat boxes, a reptile hibernaculum and areas of wildflower. A condition is to be imposed (**condition 15 refers**) which seeks to secure further details on the provision and location of the enhancements and as such, provided these details are secured, the proposed enhancement measures are considered proportionate.

Whilst an amended site layout plan was received 3 January 2024, this does not provide detail on the location of wildflower planting etc. and as such, the above condition is still considered necessary in order to ensure the proposed locations are suitable.

Minerals

Policy SP9 seeks to ensure a continuous supply of minerals by safeguarding known resources from permanent development that would unnecessarily sterilise them or hinder their future extraction. In addition, policy MG22 states that new development will only be permitted in an area of known mineral resource where it has first been demonstrated that:

- 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; or*

3. *The development would have no significant impact on the possible working of the resource by reason of its nature or size; or*
4. *The resource in question is of poor quality / quantity*

Taking the above into consideration, a 200m buffer is often required between residential properties and the extraction of minerals in order to ensure no harmful impact on properties. In this instance, given the proximity of the proposals to residential properties, the extraction of minerals would have an unacceptable impact on amenity. As such, the proposals comply with policies SP9 and criterion 2 of MG22.

Other issues

Neighbour comments relate to a lack of publicity from the applicant and it should be noted that such consultation (i.e. prior to submitting a planning application) is not a statutory requirement.

Comments relating to water connections etc. will be dealt with outside the planning remit and given the lack of objection from Welsh Water, no concerns are raised in this instance.

Comments relating to security concerns, such as concerns to security of yurt users and nearby residents are not material planning considerations. Issues relating to security for yurt users should be considered by the applicant and any other security concerns would be legal / police matters.

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:

Access Appraisal
Site Assessment Survey
EX01 Site Location Plan
PR01 Proposed Site Location Plan
PR04 Front Elevation and Plan
received 29 August 2023

PR02 Rev A Proposed Site Layout Plan
PR03 Rev C Proposed Barn Layout
Received 3 January 2024

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 use hereby granted shall only be operational between 1 March and 31 October in any one year. All yurts and associated structures to support the yurts shall be removed within the first 7 days of November and stored within the converted barn. No yurts shall be erected or sited/occupied on the land outside of these agreed times. Yurts shall only be erected or occupied as shown on the 1:500 site layout plan (received 3 January 2024).

Reason:

To enable the Local Planning Authority to maintain control over the nature of the use of this site and to comply with the terms of Policies SP1 (Delivering the Strategy), MD1 (Location of New Development) and MD2 (Design of New Development) of the Local Development Plan.

Notwithstanding the submitted details, a schedule of materials to be used in the construction of the barn 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 MD2 (Design of New Development) of the Local Development Plan.

5. Prior to the first beneficial use of the development, all means of enclosure associated with the development hereby approved shall be completed in accordance with the details set out on the 'Site Layout Plan' (stock proof fencing) unless otherwise agreed in writing by the Local Planning Authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that Order with or without modification), no further fences, gates or walls shall be erected on the land.

Reason:

To safeguard local visual amenities, and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Development) of the Local Development Plan.

6. 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 hard and soft landscaping, to include native species of planting / trees. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development and all forms of surfacing.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first beneficial use of the yurts 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), MG17 (Special Landscape Areas), MD1 (Location of New Development) and MD2 (Design of New Developments) of the Local Development Plan.

8. A landscape management plan, including management responsibilities and maintenance schedules for all landscaped areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the first beneficial use of the yurts on the site. The landscape management plan shall be carried out as approved.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

9. The yurts shall be placed on dismountable decking, as outlined in the agent's email on 4th December 2023 and there shall be no disturbance to the ground underneath.

Reason:

To ensure no detrimental impact to any roots of protected trees and to ensure compliance with Policy SP1 (Delivering the Strategy) of the Local Development Plan.

10. Prior to the first beneficial occupation of the yurts, the parking and turning areas, along with a bound material surface of the initial 6m of access, as shown in the 'Access Appraisal' document shall be completed. The development shall be completed in accordance with the approved details and shall remain available for their designated use for the lifetime of the use.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policies SP1 (Delivering the Strategy) and MD2 (Design of New Developments) of the Local Development Plan.

11. Prior to the erection of any lighting inside and outside of any building a light mitigation strategy, including measures to reduce light spillage onto foraging habitats for bats, shall be submitted to and approved in writing by the Local Planning Authority. Any lighting shall thereafter only be illuminated in line with the agreed details.

Reason:

In the interests of ecology and to ensure compliance with In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy), MG19 (Sites and Species of European Importance) and MG20 (Nationally Protected Sites and Species) of the Local Development Plan.

12. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

Reason:

To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment and to comply with Policy SP1 (Delivering the Strategy) of the Local Development Plan.

13. 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 unless otherwise agreed in writing until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the LPA within 2 weeks of the discovery of any unsuspected contamination.

Reason:

To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy MD7 of the Vale of Glamorgan Local Development Plan.

14. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported material is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the LPA.

Reason:

To ensure that the safety of future occupiers is not prejudiced in accordance with policy MD7 of the Vale of Glamorgan Local Development Plan.

15. Notwithstanding the submitted details, no development shall take place, including site clearance, until a wildlife & habitat protection and management plan has been submitted to and approved in writing by the local planning authority. The wildlife & habitat protection plan shall include:

- Provision of 3 Schwegler bat boxes in trees away from yurts and the toilet/shower block.
- Additional tree planting
- Provision of a hibernacula
- Provision for swallows to use the end of the barn.
- Reversion of grassland to wildflower meadow

The protection and management plan shall then be completed in accordance with the timings approved by the local planning authority.

Reason:

In the interests of ecology and to ensure compliance with Policies SP1 (Delivering the Strategy), MD9 (Promoting Biodiversity), MG19 (Sites and Species of European Importance), MG20 (Nationally Protected Sites and Species) of the Local Development Plan.

16. Notwithstanding the submitted details, prior to their erection, further details of the materials for the proposed yurts 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 of the rural area, as required by SP1 (Delivering the Strategy) and MD2 (Design of New Development) of the Local Development Plan.

17. Should the holiday business cease to operate, the yurts shall no longer be erected.

Reason:

To enable the Local Planning Authority to maintain control over the nature of the use of this site and to comply with the terms of Policies SP1 (Delivering the Strategy), MD1 (Location of New Development) and MD2 (Design of New Development) of the Local Development Plan.

18. Prior to the commencement of development, a Management Plan shall be submitted to and agreed to by the Local Planning Authority. The Management Plan shall include:

- Details of waste management and waste storage
- Contact details for the person responsible in the management of the site
- Details on how complaints will be dealt with and management of issues such as noise, BBQ's etc.

The operation of the business shall thereafter be carried out in full accordance with the agreed Management Plan.

Reason:

To safeguard residential amenities, and to ensure compliance with Policies SP1 (Delivering the Strategy) and MD2 (Design of New Development) 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.

Having regard to Policy SP1 – Delivering the strategy, Policy SP9 – Minerals, Policy SP10 – Built and Natural Environment, Policy SP11 – Tourism and Leisure, Policy MG7 – Provision of Community Facilities, 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, Policy MG29 – Tourism and Leisure Facilities, Policy MD1 – Location of New Development, Policy MD2 - Design of New Development, and Policy MD5 – Development Within Settlement Boundaries, Policy MD7 – Environmental Protection, Policy MD8 – Historic Environment, MD9 Promoting Biodiversity, Policy MD11 – Conversion and Renovation of Rural Buildings and Policy MD13 – Tourism and Leisure of the Vale of Glamorgan Adopted Local Development Plan 2011- 2026, and the advice contained within the Council's Supplementary Planning Guidance on Biodiversity and Development (2018), Conversion and Renovation of Rural Buildings (2018), Design in the Landscape, Minerals Safeguarding (2018), Tourism and Development (2019), Trees, Woodlands, Hedgerows and Development (2018), Future

Wales: The National Plan 2040, Chapter 3 – Strategic and Spatial Choices Planning Policy Wales 12th Edition (2024), and Technical Advice Notes 5- Nature Conservation Planning (2009), 6-Planning for Sustainable Rural Communities (2010), 10-Tree Preservation Orders (1997), 11-Noise, 12- Design, 13- Tourism and 23- Economic Development (2014), the development is considered to be acceptable form of low impact tourism in terms of its scale, design and visual impact, as well as its impact on neighbours, highway safety, mineral safeguarding, ecology and biodiversity enhancement provision.

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. The attention of the applicant is brought to the fact that a public right of way is affected by the proposal. The grant of planning permission does not entitle one to obstruct, stop or divert a public right of way. Development, in so far as it affects a right of way, must not be commenced until the necessary legal procedures have been completed and confirmed for the diversion or extinguishment of the right of way.**
- 2. For the avoidance of doubt, this consent relates to the amended application form as received on the 13 November and does not provide consent for any private sewage treatment.**
- 3. The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water Industries Act 1991.**

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. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

4. 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

5. The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

(i) determining the extent and effects of such constraints;
(ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site;

- Unprocessed / unsorted demolition wastes.
 - Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
 - Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and
- (iii) the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.

6. You should note that the building / site may constitute a breeding or resting place (roost) for bats, both of which are protected by law through UK legislation under the Wildlife and Countryside Act (1981) (as amended) and through European legislation under the Habitats Directive (EC Directive 92/43/EC), enacted in the UK through the Conservation Regulations (1994) (as amended). This legislation makes it an absolute offence to either damage or destroy a breeding or resting place (roost), to obstruct access to a roost site used by bats for protection and shelter, (whether bats are present at the time or not) or to intentionally or recklessly disturb a bat/bats within a roost. It is recommended that a full bat survey of the building/ site (including trees) be conducted by a licensed bat surveyor to ascertain presence or absence of

bats/bat roosts. In the event that the survey reveals the presence of bats/roosts, further advice must be sought from Natural Resources Wales on 0300 065 3000 or the Council's Ecology Section on 01446 704855.

- 7. Should a new connection or service alteration be required to the grid, a separate application to National grid is required. Any works in proximity to National Grid apparatus must follow relevant legislation and must also ensure that no underground cable depth and overhead cable heights are altered.**

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.