

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 21 September 2020</b>
Relevant Scrutiny Committee:	Environment and Regeneration
Report Title:	The Kymin, Penarth
Purpose of Report:	To seek approval to declare the Kymin surplus to the Council's requirements and to market the house and a proportion of the gardens as outlined in this report.
Report Owner:	Councillor Neil Moore, Leader and Cabinet Member for Performance & Resources
Responsible Officer:	Miles Punter - Director of Environment and Housing Services
Elected Member and Officer Consultation:	<p>Legal - Committee Reports</p> <p>Head of Finance</p> <p>Head of Policy and Business Transformation</p> <p>Head of Regeneration and Planning</p> <p>Operational Manager, Property</p> <p>Head of Neighbourhood Services</p> <p>Principal Lawyer (Property &amp; Contract Team)</p> <p>The local ward members have been consulted and any feedback will be reported at the Cabinet meeting.</p>
Policy Framework:	This report is a matter for Executive Decision by Cabinet
<p><b>Executive Summary</b></p> <p>This report provides Cabinet with an update regarding The Kymin which has previously been let to Penarth Town Council and which reverted to the Council's control in April 2020. The report sets out proposals to declare The Kymin surplus to the Council's requirements. It is proposed to advertise a long lease opportunity of the Building and part of the grounds and to consider future options for the retention of the remainder of the grounds. A further report will be provided in due course to present to Cabinet the outcome of the advertisement process in order to inform any decision in relation to the</p>	

disposal of The Kymin and grounds. At that time, a decision will also need to be taken as to whether the Council should proceed to advertise the loss of public open space that would be required by legislation.

## **Recommendations**

1. That Cabinet notes the background to The Kymin returning to the Council's control.
2. That Cabinet declares The Kymin building and grounds identified on the plan at Appendix A surplus to the Council's requirements.
3. That the Director of Environment and Housing Services is authorised to instruct the Head of Finance in consultation with the Managing Director, Leader and Deputy Leader, to advertise the Kymin and grounds on a long lease basis (boundary shown on plan at Appendix A) on the basis of a Marketing/Planning brief setting out specific uses as described in this report.
4. That a further report is presented to Cabinet outlining the results of the marketing process, set out under recommendation 3, above, in order to identify a preferred bidder and to set out any terms and conditions without prejudice to recommendation 5 below.
5. That following the marketing exercise set out in recommendation 3, the report in pursuance of recommendation 4 above, will also consider the need or otherwise to advertise the loss of public open space under both s.123 Local Government Act 1972 and the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015.
6. That delegated authority is given to the Director of Environment and Housing Services in consultation with the Managing Director, Leader and Deputy Leader to consider the short, medium and long term options for the retention of the remainder of the site as public gardens (as identified on the plan at Appendix B) and a further report be brought to Cabinet in due course to consider the options.

## **Reasons for Recommendations**

1. To advise Cabinet of the position with The Kymin (building and grounds) reverting to the Council's control as of 1<sup>st</sup> April 2020.
2. To ensure that the requirements of the Council's policies are adhered to.
3. To comply with legal processes relating to the potential loss of public open space.
4. To update Cabinet on the outcome of the marketing process.
5. In order to comply with legal requirements relating to the disposal of public open space and playing fields.
6. To secure the long-term future of the remaining grounds as public gardens.

## **1. Background**

- 1.1 The Kymin is located within the Penarth conservation area on Beach Road, North of the Esplanade and the pier and pavilion, South of Penarth Head. The Kymin is a detached Victorian house situated within mature landscaped gardens of approximately 2 hectares. There are uninterrupted views of the Severn Estuary from the house and parts of the garden. The Building is not listed but is identified

as a “County Treasure”. The presumption, therefore, will be that the building is retained for the benefit of the local area and wider community.

- 1.2** The building and grounds have been let to Penarth Town Council by virtue of a Tenancy agreement dated 16 February 1982 on a year to year basis. Up until recently, the building has been occupied by Penarth Town Council.
- 1.3** Penarth Town Council served notice on the Council to terminate the Agreement during 2019. In accordance with this notice, the Agreement terminated on 31 March 2020. Between serving notice and the asset returning to the Council, dialogue continued with the Town Council. Since the return to the Council’s control, maintenance of the land and building has been the responsibility of the Local Authority.

## **2. Key Issues for Consideration**

- 2.1** Since reverting to the Council’s control on 1<sup>st</sup> April 2020, options for the future of the property have been considered.
- 2.2** When instances such as this arise and a building or asset becomes available, the Council’s standard processes require consideration of alternative uses by the Local Authority. This is in line with the requirements of the Council’s ‘Disposal Protocol’. This ensures that consideration is given to how assets could be used, prior to considering whether they are no longer required by the Council. The Insight Board was therefore consulted to establish if there is any internal proposal for the re-use of the property. The opportunity was considered by Insight Board on 27<sup>th</sup> February 2020, where it was established that there were no internal proposed uses for the Kymin and therefore it was concluded that the property was surplus to the Council’s requirements and as such, an alternative productive use of the building for the benefit of the town could be sought.
- 2.3** To inform the future strategy for The Kymin and grounds, officers have made enquiries of both the National Trust and The Landmark Trust to ascertain their interest in considering the Kymin as one of their Historic Buildings.
- 2.4** The Landmark Trust confirmed that as they are a small charity with very limited funds, they can take only a few buildings each year and as the Kymin does not have the historic interest that they are looking for at present, they regret that it is not something that they wish to pursue.
- 2.5** The National Trust has also confirmed that due to very challenging times, they would not be able to take on any additional buildings such as the Kymin at this time.

- 2.6** Following the consideration by the Insight Board and the contact with the bodies described above it is proposed that any disposal relating to The Kymin and grounds should consider the building (with some grounds) as being separate from the remaining grounds in recognition that the retention of some of the grounds was important for local residents.
- 2.7** For this reason, it is proposed that the building and land identified on the plan at Appendix A is advertised for sale (by virtue of a long lease) for specific uses that will be set out in a Marketing/Planning Brief which will accompany the marketing process. It is proposed that those uses will be limited to community, hotel and restaurant type uses.
- 2.8** The remainder of the grounds (Appendix B) would not be included in this disposal.
- 2.9** Following the conclusion of marketing, it is proposed that a further report will be presented to Cabinet outlining the results of the marketing process. This will enable a preferred bidder to be identified and to set out any terms and conditions.
- 2.10** In disposing of the building and land shown in Appendix A, an element of public open space would be disposed of. In order for the Council to consider this element of the disposal, the potential loss of public open space will be required to be advertised in accordance with legislation. The Council is required to advertise the loss of public open space pursuant to s.123 Local Government Act 1972 and also The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015.
- 2.11** s.123 (2A) states that where a disposal consists of or forms part of an open space the Council cannot dispose until it has placed notices in a newspaper circulating in the area on two consecutive weeks and considered any objections that may have been received by them.
- 2.12** Regulation 5 of the Playing Field Regulations states that before making a decision to dispose of a playing field, or any part thereof, the Council must publish a notice on two consecutive weeks in at least 1 newspaper circulating in the local authority area providing a period of at least 6 weeks, starting with date of first publication, for people to make objections.
- 2.13** The Council will also need to consider an impact assessment to include the effect that any disposal of the land classed as “playing field” would have on any relevant Council strategies, plans or assessments.
- 2.14** Under both sets of legislation, the Council must consider any objections received and give them due consideration. It is for this reason that it is recommended that any resolution being made in relation to the disposal of the property is

subject to these processes and due consideration of the outcome by Cabinet of the public open space processes in a further report.

- 2.15** As described above, some of the land within the boundary of The Kymin is not included in the proposed area for disposal. This land is shown in Appendix B. The Council is committed to retaining this land as public open space for the enjoyment of local residents.
- 2.16** However, it is acknowledged that the Council does not have to directly manage this land (as has been the case in the recent past whereby Penarth Town Council maintained the grounds in addition to occupying the Kymin building).
- 2.17** As such, the Council will (in parallel with the processes described above regarding the building and grounds proposed for disposal) be considering options for the future management of the grounds shown at Appendix B, either directly or by working with others.
- 2.18** Penarth Town Council recently indicated their interest in taking on a longer-term commitment in relation to part of the grounds. Officers have met with officials and elected members of the Town Council on site to discuss their interest. However, at the time of writing, there has been no formal response from the Town Council to progress any further with this interest.
- 2.19** It is therefore proposed that in the short/medium term, the Council's Neighbourhood Services team will continue to maintain the grounds. Delegated authority is sought for the Director of Environment & Housing in consultation with the Managing Director, Leader and Deputy Leader to consider the longer-term options for the management of the grounds. This will include the potential to work with third parties such as community groups in order for the grounds to be managed going forward. A report on these considerations will be brought to Cabinet in due course.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The implementation of the legal process for the potential loss of public open space at the appropriate time will ensure that the Council's decision making is both lawful and considered. The legal process will ensure that any objections to the disposal of the public open space will be reported to Cabinet, thereby allowing for the Council's customers and local communities views to be heard. The decision-making processes described in this report are intended to ensure decisions are made that consider the longer-term impacts. Any subsequent decisions taken following the legal processes described in this report will be

made in full consideration of the Council's corporate plan and well-being objectives.

- 3.2** The proposals seek to consider the long-term sustainability of The Kymin as well as the provision of public gardens. The proposals to work with the Town Council demonstrate this Council's commitment to working in collaboration and reflect the understanding of the two organisations' strategic priorities for the area.

## **4. Resources and Legal Consideration**

### **Financial**

- 4.1** There will be cost implications for the placing of advertisements in line with the requirements of the legal processes outlined in the report, however these are minimal and can be absorbed by existing budgets.
- 4.2** Officers have commissioned a building surveyor to prepare a condition report to inform the marketing process. There are costs associated with the engagement of the surveyor to provide the required reports and recommendations in relation to the required condition assessment. Budget has been identified to account for these costs.
- 4.3** There will be marketing costs associated with the disposal of the property, however budget will be identified to account for these costs.

### **Employment**

- 4.4** There are no direct Human Resources Implications associated with this report.

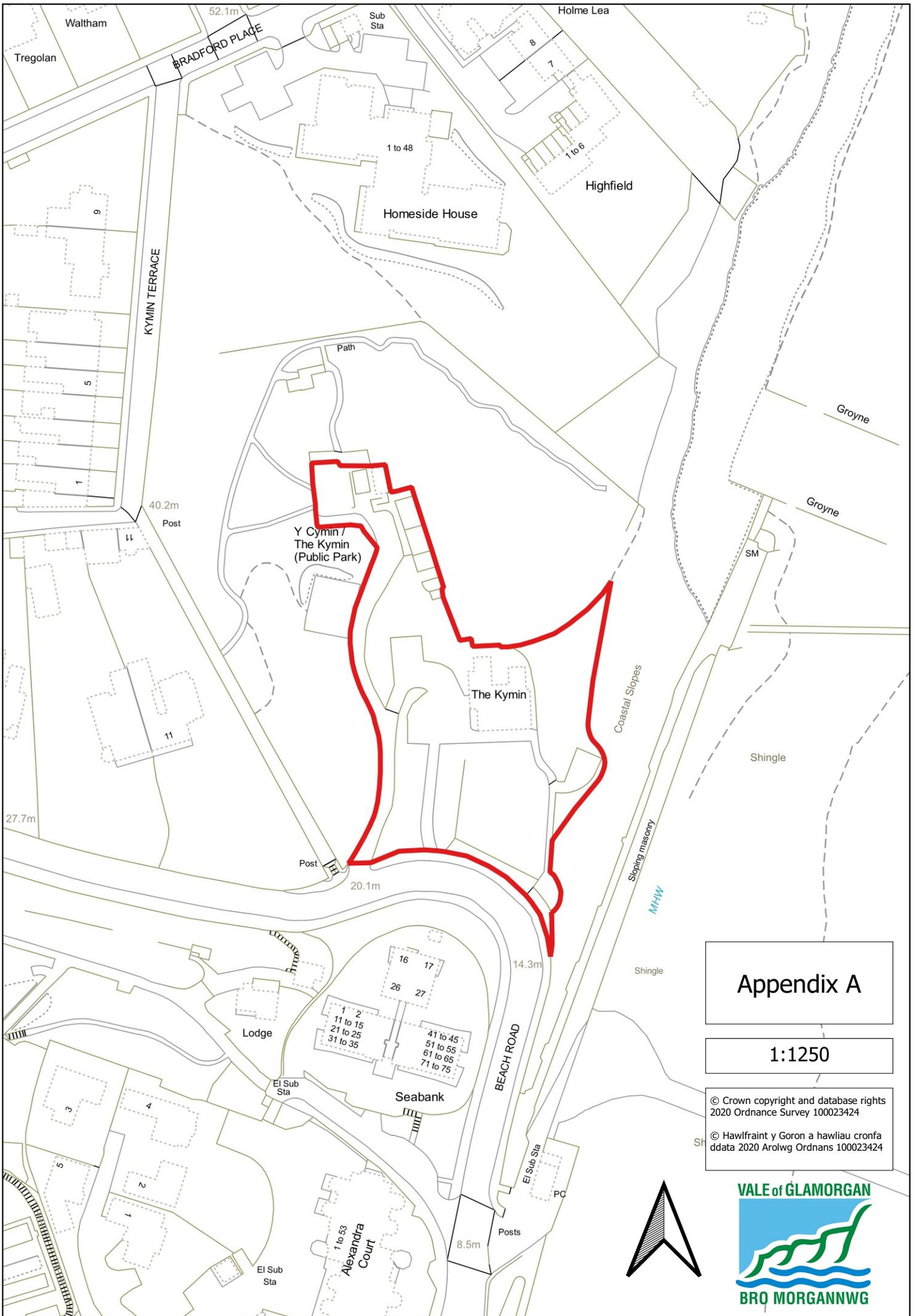
### **Legal (Including Equalities)**

- 4.5** The Council has the power under section 123 of the Local Government Act 1972 to dispose of land in any manner it wishes including private treaty, formal tender or invitation of (sealed) offers. The only constraint is that a disposal must be for the best consideration reasonably obtainable. There are exemptions to this requirement however, the Council is not relying on any such exemptions for this particular disposal as the intention is to secure market value.
- 4.6** Furthermore, section 123 (2A) of the Local Government Act 1972 states that no principal council may dispose of land consisting or forming part of an open space unless, before disposing of the land, they cause notice of their intentions to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.

- 4.7** As there is a petanque court within the boundary of the Kymin the Council must comply with the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015 in respect of the petanque courts.
- 4.8** These regulations require the Council to prepare an impact assessment on the effect of the loss of the petanque courts and to publish notice of their proposal to dispose of the petanque courts, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated and inform people where they can view the proposals and of their right to make representations to the Council.
- 4.9** The Council is required to make the details of the proposed disposal available for inspection and is to specify a period of at least 6 weeks for representations to be made to the Council and consider any objections to the proposed disposal which may be made to them.
- 4.10** As well as publication in a local newspaper the Council must put a copy of the Notice on or near the Kymin and on the Council's website. Copies must also be provided to any owner or occupier of adjoining land; the Sports Council for Wales; the National Playing Fields Association; those persons who represent the interests of persons who make use of the petanque courts; and anybody whose main aims include preserving open spaces in Wales or play opportunities for children throughout Wales. These matters will be reported back to Cabinet at the appropriate time in line with recommendation 5 above.

## **5. Background Papers**

None

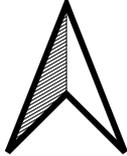


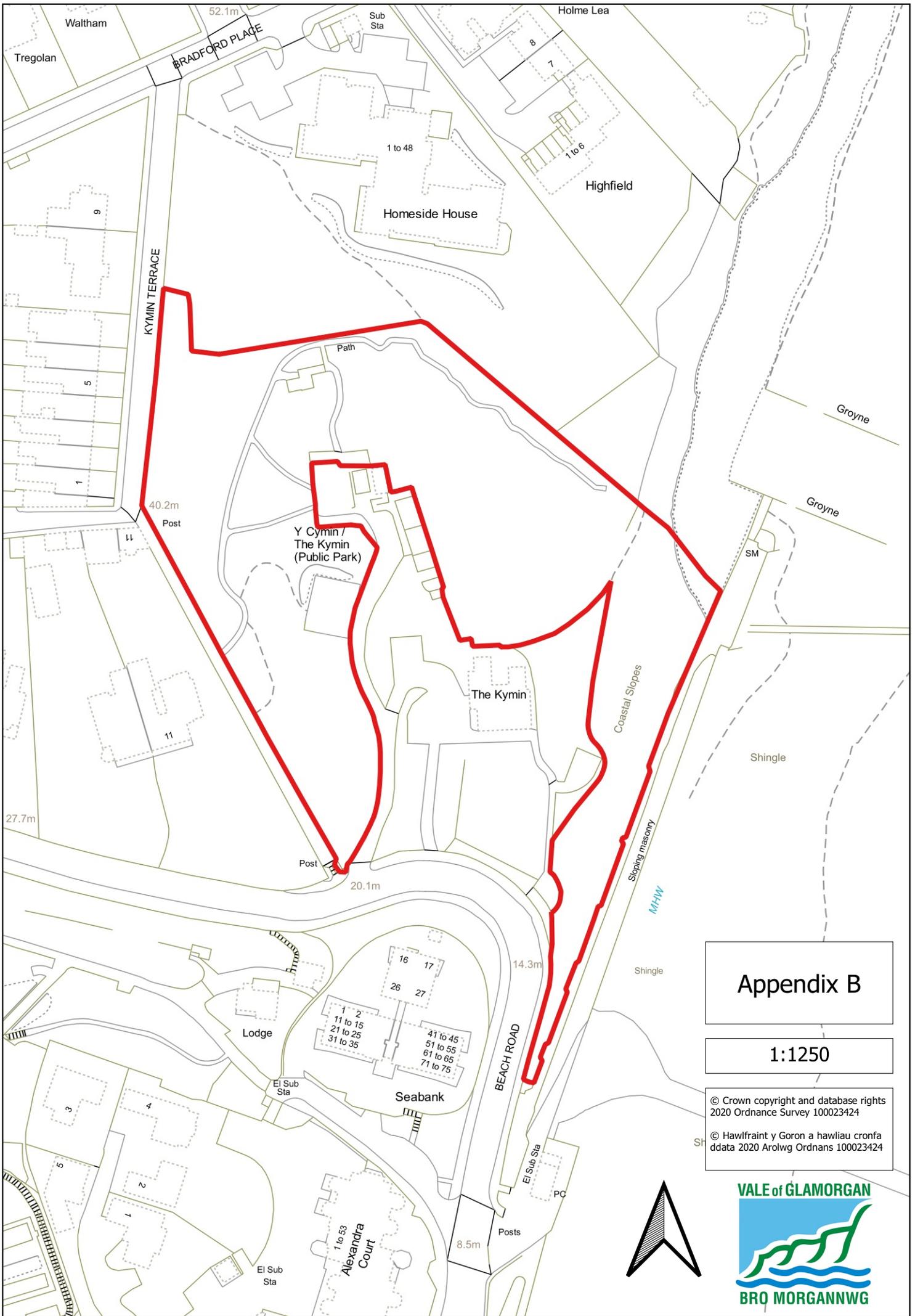
Appendix A

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Appendix B

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