

REFERENCE: P/17/1073/FUL

APPLICANT: Morganstone Ltd & Pennant Homes Ltd Morganstone House, Unit 3, Llys Aur, Llanelli Gate, Llanelli, SA14 8LQ

LOCATION: Land off All Saints Way Penyfai CF31 4BT

PROPOSAL: Residential development of 20 dwellings including 3 affordable dwellings plus access, car parking, open space, landscaping, drainage and associated engineering works

RECEIVED: 20 December 2017

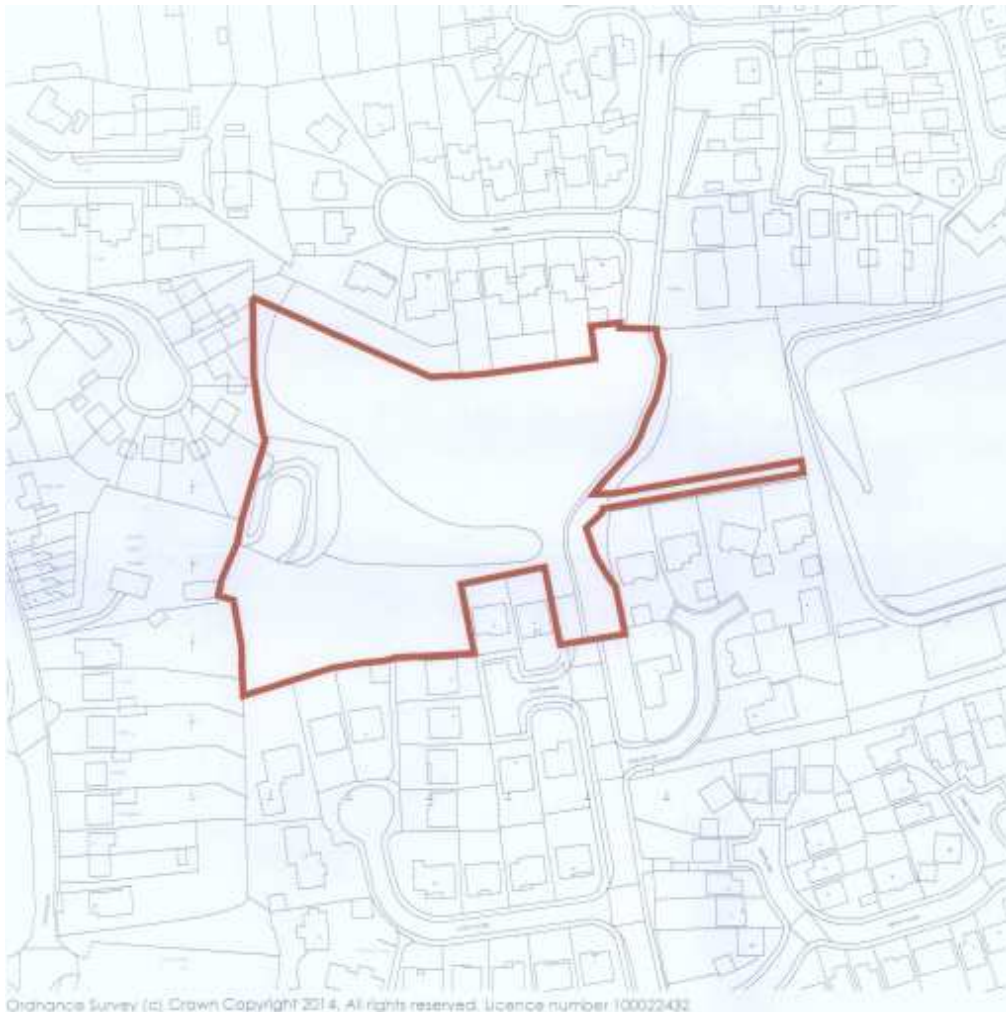
SITE INSPECTED: 16 January 2018

APPLICATION/SITE DESCRIPTION

The application seeks full planning permission for the proposed residential development of 20 dwellings including 3 affordable dwellings plus access, car parking, open space, landscaping, drainage and associated engineering works on land south of All Saints Way, Pen y Fai, Bridgend.

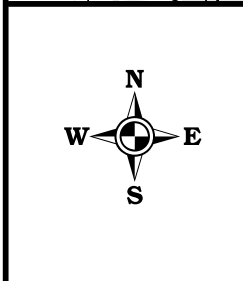
The site is approximately 1.14 hectares (2.8 acres) and comprises an area of vegetated sloping scrub and woodland, within an established residential area. The site is currently vacant and in the ownership of Bridgend County Borough Council. The western side of the site includes a small quarried area and the site is subject to part Himalayan Balsam colonisation with no protected trees present on the site.

Site Location Plan:



Application Number

P/17/1073/FUL



Scale 1:1,750

Date Issued:
29/05/2018

Development-Mapping
Tel: 01656 643176

Mark Shephard
Corporate Director-Communities

Communities Directorate,
Bridgend County Borough
Council, Civic Offices,
Angel Street,
Bridgend CF31 4WB.

O/Drive/Plandraw/new MI layouts/
Committee DC Plan

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A Public Right of Way runs through the site from north to south known as Footpath 29 – Newcastle Higher. The application proposes to slightly divert the footpath to align with the proposed development. The site is surrounded by existing residential development on 3 sides comprising of small cul-de-sacs of detached houses. The western part of the site also shares a boundary with Smyrna Baptist Church. Located to the east of the site is a parcel of land which is in private ownership and is subject to a recent planning application approved for the erection of 4 detached residential dwellings.

An area of informal recreation space is provided in the central part of the site. This area will also include landscaping, planting and ecological mitigation. An engineered bank will separate the northern and southern part of the site with trees and landscape planting provided throughout the site.

The application also proposes to create a 12m x 3m wide access into the Cavendish Park playing/sports field to the east of the site. This will comprise a level surfaced vehicular and pedestrian pathway from the footpath to the playing field.

The proposed site layout comprises 20 dwellings, including 3 affordable homes, with the majority of the properties being 4 and 5 bedroom homes with a short terrace of three 2 bedroom dwellings as the affordable housing provision. The site will be split into two sections, north and south with access to the site from All Saints Way to the north and off Clos Smyrna to the south. An amended site layout plan was submitted on 10 May 2018 which illustrates the correct Public Right of Way route which is to be diverted and re-routed and now incorporates approximately 150m of ARMCO barrier to the northern plateau.

Proposed Site Layout:



The proposed dwellings will be two storeys in height in the northern part of the scheme, however due to the site levels, properties to the southern part of the site will be split level, with two storeys to the front and three storeys to the rear. At the northern end of the site, a new embankment is proposed to the rear gardens to accommodate site levels and to provide flat gardens. There are 6 house types proposed and these all consist of dark grey ridge tiles, reconstituted roof tiles, smooth render to upper floors painted white with red brickwork plinth to the ground floor, UPVC windows and doors and aluminium up and over garage doors. There are elements of facing stone brickwork on the front elevation of the dwellings which increases with the size of the properties. House Type A comprises a kitchen, hall, dining room and living room at ground floor and two bedrooms and a bathroom at first floor level with one off street parking space allocated to each dwelling located to the side of the dwellings. House types B,C,D and E comprise an internal garage, lounge, dining room, kitchen, utility room and WC at ground floor level and four/five bedrooms, en-suite and family bathroom at first floor level with two off street parking spaces accommodated on the front driveway. House Types F and F1 are three storey properties and comprise the above with a family room located on the lower ground floor and rear balconies located at first floor level.

Example of the F1 House type:



The application site lies within the residential settlement boundary of Pen y Fai as defined by Policy PLA1 of the LDP 2013 and lies approximately 2 miles from Bridgend. The application site is located close to the local facilities of Pen y Fai such as the primary school, local shops and playing fields as well as the village pub, church buildings and bus stops. The site is currently vacant and comprises trees and scrub land and is surrounded by existing residential dwellings.

The following documents have been submitted with the planning application:

- Design and Access Statement;
- Ecological Assessment by David Clements Ecology;
- Transport Statement;
- Pre-Application Consultation (PAC) Report;
- Tree Survey and Tree Constraints Plan by Tree Scene;
- Detailed Site Layout Plan, Elevations and Floor Plans;
- Engineering Strategy;
- Site Cross Sections;
- Landscape Strategy;
- Site Location Plan;
- Site Layout Plan;
- Site Investigation Report by Integral Geotechnique;
- Invasive species survey and method statement by David Clements Ecology;
- 3D images of the proposed development

RELEVANT HISTORY

None

PUBLICITY

The application was advertised on site and in the press.

Neighbours have been notified of the receipt of the application.

The period allowed for response to consultations/publicity expired on 12 February 2018

CONSULTATION RESPONSES

Newcastle Higher Community Council – Objects to the proposed development on the impact on highway, ecology, drainage, character, scale and privacy.

Head of Street Scene (Highways) - No objection subject to conditions.

Head of Street Scene (Drainage) – No objection subject to standard conditions and advisory notes.

Head of Street Scene (Waste and Recycling) - Raises concerns over width of proposed roads and room for waste vehicles to manoeuvre within the site.

Head of Public Protection – No objection subject to advisory notes.

Public Rights of Way Manager – No objection to the revised plans and diversion of Footpath 29 Newcastle Higher.

Welsh Water Developer Services – advise that surface water shall only be discharged into the public sewer as a last resort and the developer will have to demonstrate that all other options have been explored and exhausted with consideration given to sustainable methods of drainage. DC/WW has therefore requested a condition be attached for the submission of a drainage scheme prior to works commencing on site.

Designing Out Crime Officer - No objection to the site layout but requests that the residential properties overlook the public right of way to provide natural surveillance to prevent the creation of 'rat runs'.

Natural Resource Wales (NRW) – No objection to the proposed development and advises to contact the Authority's Ecologist in relation to European Protected Species such as bats and dormice.

Destination and Countryside Manager – No objection following further assessment of additional information regarding invasive species survey and method statement.

REPRESENTATIONS RECEIVED

Cllr. Altaf Hussain (Local Member) objects to the proposed development has requested to speak at Committee.

25 letters of objection were received regarding the proposed development and the concerns have been summarized as follows:

- Overdevelopment of the site;
- Increased traffic;
- Impact on ecology/wildlife;
- Privacy/overlooking/overshadowing/overbearing;
- Loss of light and views;
- Concerns over safety issues and pedestrian access;
- Noise pollution
- Surface water concerns due to loss of trees and vegetation;
- Covenant to prevent development of the site;
- Impact on the public footpath;
- Lack of parking;
- Loss of trees/wildlife/plants;
- No provision of new facilities;
- Out of character with area;
- Impact on highway;
- Concerns over narrow road within site and refuse collection;
- Impact of excavation works;
- Stability of land;
- Damage to boundary walls;
- Decrease in value of properties;
- Clearance of the site prior to planning permission being granted;
- Concerns over safety and impact of development on public right of way;
- Concerns of flooding and drainage on the site;
- Concerns over access for emergency vehicles to the proposed site;
- Site former quarry – not suitable for development;
- Inadequate consultation with local residents;
- Conflict of interest with BCBC and sale of land;
- Impact on local school

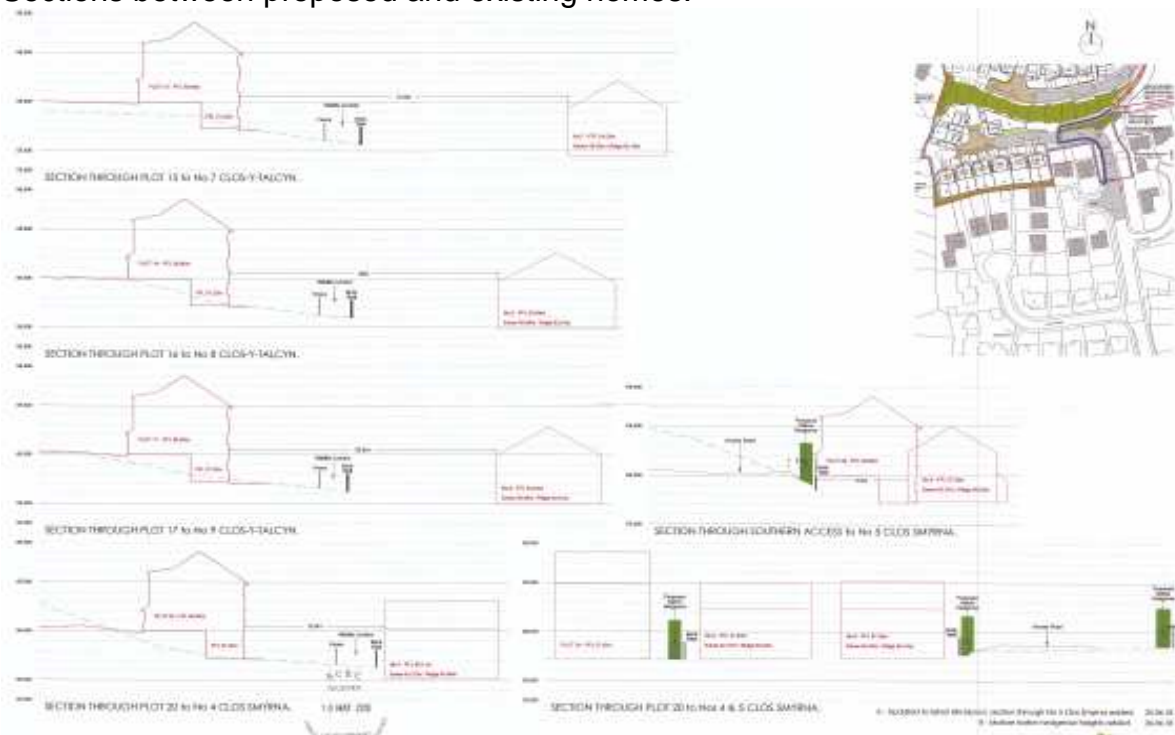
A further re-consultation was undertaken and 4 objections were received to the amended plans which were received on 3 April 2018 which related to the site levels/cross section plans and a new site layout plan showing changes to the PROW and some minor works to the proposed footpaths within the site and proposed access to the playing fields. The majority of the representations re-iterated the concerns raised above, however the following points were raised in relation to the amended plans:

- Concerns over the proposed changes to the footpath with its series of 12 steps and its steepness preventing families with small children and prams from using the route and elderly residents who regularly use the path.

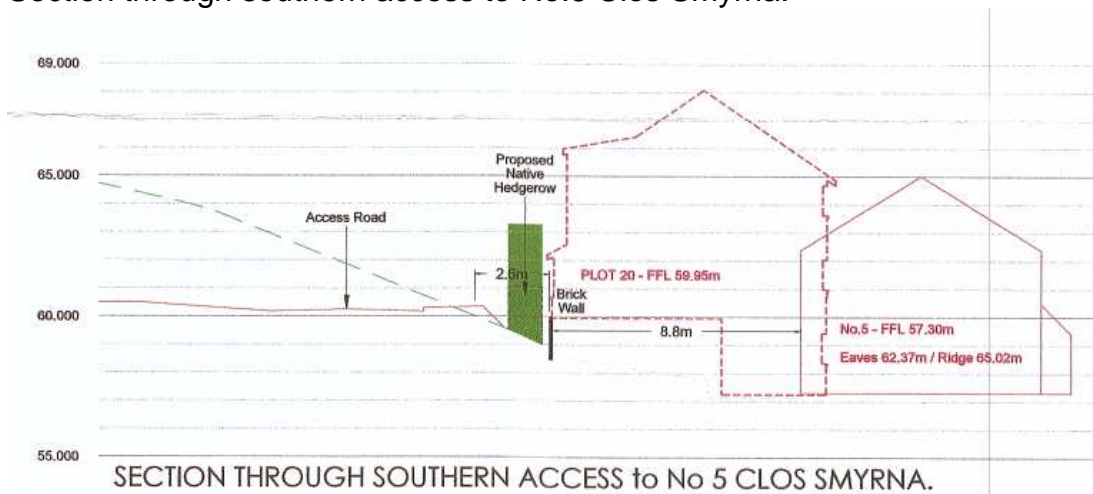
- Lack of privacy for 5 and 6 Clos Smyrna as proposed road is located at a higher level than the houses.
- Concerns over the safety of the use of the public footpath and its relationship with moving vehicles.

Further to a number of concerns and comments made at the Full Development Control Committee site visit, undertaken on 25 April 2018, further amended plans were received on 10 May 2018 to address the concerns regarding the distances and site levels of the new access road in relation to the neighbouring properties of 5 and 6 Clos Smyrna. At the site meeting, members visited the rear gardens of 4 and 5 Clos Smyrna to view the site from existing properties and it was suggested that the submitted sections were inaccurate. The agent was at the site visit and officer's requested that they address this concern. In response, the agent has advised that they have utilised the complainant's drawing and has merged them with their own topographical data and as a result, the revised plan is now based on more detailed information and fully represents the situation on the ground. It should be noted that the neighbour has not re-iterated his initial concerns regarding the inaccuracy of the plans and has only queried the proposed hedgerow between their rear wall and the proposed access road and footpath.

Sections between proposed and existing homes:



Section through southern access to No.5 Clos Smyrna:



A revised site layout plan was also submitted, which incorporated the ARMCO barrier and a revised landscaping scheme. Additional details were also submitted regarding boundary treatments, a Construction Environmental Management Plan and an email from the Council's Property Section confirming details of the surface water drainage that is located within the quarry. A further consultation was undertaken with neighbouring properties and an additional 12 letters of objection were received including an additional response from the Local Ward Member, Councillor Altaf Hussain. The majority of the representations reiterated the concerns raised previously, however, the following points were raised in relation to the amended plans:-

- Visual impact of proposed retaining wall along the path to the playing fields;
- Storage and handling of hazardous materials and development of contaminated land;
- Concerns over the height and location of the proposed hedge to the rear of 5 and 6 Clos Smyrna in relation to loss of light, privacy and maintenance;
- Concerns over land stability, subsidence, flooding and damage to properties;
- Concerns over the use of cellular storage drainage at the site and maintenance;
- Concerns over lack of details of the wildlife corridors and its maintenance;
- Limited private zone spaces for 4 Clos Smyrna and 7, 8 and 9 Clos y Talcen;
- Discrepancies in the labelling of engineering strategy plan 2209-500L and site cross section plan 2209-503B;
- Concerns over the content of the Construction Environmental Management Plan with specific reference to wheel washing;
- Concerns over viewing amended plans on line as the Council's website has been inaccessible
- Concerns regarding the proposed changes to the PROW.

COMMENTS ON REPRESENTATIONS RECEIVED

The majority of the concerns raised above have been addressed within the appraisal section of the report, however, specifically:-

- Devaluation of properties and land covenants are not material planning considerations.
- Local residents have been consulted on the application by the Local Planning Authority as stated under Section 12 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
- The sale of the land has been subject to a separate process with the Council's Property Section and the LDP is a different function to other Committee activities.

- Prior to the submission of this application, clearance works were undertaken by the applicant such as the removal of vegetation and works to trees that are not protected. These works did not require the benefit of formal planning permission and were approved under a separate licensing regime operated by Natural Resources Wales.
- The Council were aware that the website was unavailable due to the implementation of recent changes. In view of this, the re-consultation letter gave a direct link to the application in order to avoid residents experiencing any problems in viewing the amended plans.
- Discrepancies in the labelling of engineering strategy plan 2209-500L and site cross section plan 2209-503B are a result of a typographical error and should read the following:-

Engineering Strategy Plan 2209-500L – Plots 15-20 are to be split level bespoke units 2 storey to front and 3 storey to rear; and

Site Cross Section Plan 2209-503B section through Plot 20 to 5 and 6 Clos Smyrna

- Details of the proposed planting of the wildlife corridors are stated on the Landscape strategy plan ref 389.01 Revision B,
- With regard to land stability and contamination, it has not been possible to produce a full contaminated land assessment or a risk assessment for subsidence since the site visit. However, a condition is attached to the recommendation requiring a contaminated land assessment and report with recommendations to be submitted to and agreed by the Local Planning Authority prior to the construction of the dwellings on the site. Likewise, in terms of land stability, this issue was raised at the site visit and members and local residents were advised that any damage to private property is a civil matter between the developer and any affected party.
- With regard to the maintenance of the proposed landscaping on site, the applicant will be required to enter into a S106 agreement to provide details of a Management Company including funding and maintenance for landscape on the site.

PLANNING POLICIES

National Planning Policy and Guidance

National planning guidance in the form of Planning Policy Wales (Edition 9, November 2016) (PPW) is of relevance to the determination of this application.

Chapter 4 of PPW deals with planning for sustainability – Chapter 4 is important as most other chapters of PPW refer back to it.

Chapter 9 of PPW is of relevance in terms of the advice it provides regarding new housing. Whilst the bulk of Chapter 9 covers housing proposals in general, the following is considered to be of specific relevance to this proposal:

9.3.2 Sensitive infilling of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. Significant incremental expansion of housing in rural settlements and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where travel needs are unlikely to be well served by public

transport. Residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use.

Technical Advice Notes:

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

Technical Advice Note 2 – Planning and Affordable Housing (2006)
Technical Advice Note 5 – Nature Conservation and Planning (2009)
Technical Advice Note 12 – Design (2016)
Technical Advice Note 18 – Transport (2013)

APPRASIAL

A full Development Control Committee site visit was undertaken on Wednesday 25 April 2018.

The application was deferred following the full Committee Site Visit to allow the developer to provide additional information and clarity regarding the levels and distances between the application site (access road) and existing properties, together with another consultation exercise.

Amended plans were received on 9 May 2018 to address the concerns regarding the site levels of the new access road in relation to the neighbouring properties of 5 and 6 Clos Smyrna along with a revised site layout plan which incorporates the ARMCO barrier and a revised landscaping scheme. Additional details were also submitted regarding boundary treatments, a Construction Environmental Management Plan and an email from the Council's Property Section confirming details of the drainage that is located within the quarry. A further consultation was undertaken with neighbouring properties.

The application is referred to the Development Control Committee due to the number of neighbour objections received regarding the proposed development.

The main issues to consider in this application are the principle of the development, the impact of the proposed development on the character and appearance of the street scene and wider area, impact on the neighbouring properties, ecology, drainage, public right of way and consideration of access and parking.

Principle of the Development

The application site lies within the residential settlement boundary of Pen-y-Fai as defined by Policy PLA1 of the Local Development Plan (LDP) 2013. Policy COM3 *Residential Re-Use of a Building or Land* of the LDP states that residential developments within settlement boundaries defined in Policy PLA1 on windfall and small scale sites for the conversion of existing buildings or the re-use of vacant or under-utilised land, will be permitted where no other policy protects the building or land for an existing or alternative use. The proposed site would classify as a vacant site under Policy COM3, which makes an important contribution to the overall housing supply and introduce an important element of choice and flexibility into the housing market. The site is not allocated for a specific use, therefore residential development would be acceptable in principle subject to other LDP Policies.

In conclusion, the principle of residential development accords with Policies PLA1 and COM3 of the LDP and is therefore considered acceptable.

Impact on character and appearance of the street scene and wider area

The application site is located within the predominantly residential area of Pen y Fai and currently comprises vacant, sloping scrub land and woodland. Whilst the site currently provides an area of openness and foliage, it is considered that the introduction of 20 new residential dwellings would be in keeping with the residential area. Following an assessment of the submitted plans and proposed house types, it is considered that the overall design, scale and materials proposed reflect that of the surrounding existing residential housing located at Clos Smyrna, Clos Yechyd and Hillside as they are large dwellings which sit within relatively large plots. The proposed development will also result in an adequate level of amenity space to serve the development. Concerns were initially raised by the Local Planning Authority (LPA) regarding the impact of the proposed parking on the appearance of the street scene. From viewing the submitted plans, it was noted that particularly in the southern plateau and the row of three storey dwellings, the street frontage would be dominated by the appearance of off street parking. The applicant has now provided justification and 3D views/images which provides an impression of how the vehicles will sit within the development. The use of soft landscaping such as green hedges and trees is considered to help to reduce the impact and will improve the overall appearance of the development. In view of this, the proposed development is considered to sit well within the site and relate well with the surrounding properties which seeks to enhance the character and appearance of the existing area.

Accordingly, it is considered that the proposed development accords with Policies SP2 (2) and SP2 (3) of the LDP 2013.

Impact on the neighbouring properties

As mentioned above, the site is located within a predominately residential area and is surrounded by a number of existing properties.

The proposed dwellings located on the northern plateau of the site are located approximately 35m away from the rear of the properties of Hillside and is therefore not considered to have an unacceptable impact on the privacy and residential amenities that the occupiers of these properties currently enjoy. Also, the proposed three properties located at the entrance of the site are set back into the site and are separated by the access road and Public Right of Way from the new dwellings that have been erected opposite the site. Accordingly, the proposed development is not considered to have a significant adverse impact on the residential amenities of these properties.

With regard to the southern plateau, whilst it is noted that the site is sloping, the applicant has provided amended plans to show the site levels/ cross section of the site and how the proposed dwellings sit in relation to the existing dwellings at Clos Smyrna and Clos y Talcen. The proposed dwellings are located at a slightly higher level than the existing properties. However, due to the sloping nature of the site, it is acknowledged that some views maybe afforded into the properties, however having regard to the distances between the properties, which comply with the Council's standards as set out in the Council's SPG02: Householder Development, these views are not considered to result in a significant adverse impact on the privacy and residential amenities these properties currently enjoy.

In relation to 5 Clos Smyrna, whilst Plot 20 is located within close proximity to this dwelling, due to the setback position of the dwelling within the plot and the design of the proposed dwelling (no windows located in the side elevation), it is considered that there will be no unacceptable impact on the privacy that this property currently receives as a result of the development. Whilst the proposed dwelling will be located slightly higher than the existing dwelling, Plot 20 is to be set back off the boundary by approximately 3metres

and the implementation of appropriate landscaping will assist in reducing any further impacts on the existing property.

In relation to the impact of Plot 20 on 4 Clos Smyrna, it is noted that there is a first floor frosted window that serves as a bathroom on the side elevation of the existing property and in view of this it is not considered to have an unacceptable impact on the privacy and residential amenities of this property. With regard to the impact on the rear conservatory and private rear garden of this property, whilst it is noted that some views maybe afforded into the rear garden area, due to the distance between the two properties of 13.5m and the proposed planting of trees and vegetation within the wildlife corridor that will be located along the boundary between this property and the proposed dwellings, it is considered that there will be no significant adverse impact on the residential amenities that this property currently enjoy. It is also worth noting that the Council's Supplementary Planning Guidance: Householder Development SPG02 states, '*the minimum distance from new habitable room windows to the boundary should be 10.5m, increasing to 12 metres if the window is to a first floor living room*'. As stated above, the distance between the two properties measures 13.5m which is considered acceptable and accords with the above guidance.

As a result of a number of concerns raised at the Development Control Committee site visit regarding the impact on 5 and 6 Clos Smyrna as a result of the proposed access road, an additional cross sectional plan was submitted regarding the site levels. As a result, a 2.4m high green hedge is to be planted along the rear of these properties in order to reduce the impact on the privacy of these properties. Following further assessment of the proposal, it is considered necessary to attach a condition requesting further details regarding the re-location of the hedge closer to the footpath and located further away from the rear boundary wall of the properties in order to allow for a maintenance corridor for the hedge. It is also considered that whilst there will be a greater impact on 5 and 6 Clos Smyrna as a result of the location of the proposed access road into the site, the amount of noise generated is considered to be limited due to the number of properties which the road will serve and the impact on privacy will be reduced via the planting of native hedgerow to obscure any views into the rear gardens.

Accordingly, it is considered that the proposed development will not have a significant adverse impact on the residential amenities currently enjoyed by the neighbouring properties with particular reference to 4, 5 and 6 Clos Smyrna and the proposal, therefore accords with Policy SP2 (12) of the LDP and the Council's Supplementary Planning Guidance SPG02: Householder Development.

Access and Parking.

The Council's Transportation Officer has assessed the submitted scheme and has noted that the applicant has provided comprehensive site layout details which have been agreed through a number of iterations during the consultation process. However the applicant has not provided adequate detail regarding the relationship of the existing footpath, the proposed access into the sports field and also the change in surface from the existing footpath and the diverted footpath. It is considered that the existing footpath at the northern end of the development should be completed in a surface that matches the diverted footpath at the southern end of the site to encourage active travel and adhere to the Active Travel Act 2013 and this can be addressed via condition.

With regards to the proposed Green Slope embankment which will support the highway at the northern end, it is noted that this will be designed by a specialist appointed by the applicant. However to ensure that the retaining structure meets the requirements of the Highway Authority, it is considered necessary to attach a condition to request the submission of this information. In addition, the applicant provided details of the vehicle

and pedestrian restraint system to be implemented at the top of the embankment, however further details will be requested to be submitted via condition regarding its design and construction and its certification from a structural engineer. The applicant has provided off-street parking and visitor parking which now meets the Council's adopted parking standards, SPG17, for new residential dwellings.

Finally to protect the residential amenity of the existing residents and protect the free flow of traffic on the surrounding highway network, a Construction Management Plan (CEMP) is required to be submitted and agreed by the LPA which seeks to restrict vehicle movements during peak periods and avoid heavy goods vehicles during school drop off and collection times. The submitted CEMP contained insufficient information in order to agree the details and therefore a condition is necessary to be attached to any consent granted requesting further details regarding the construction of the proposed development.

Accordingly, it is considered that the proposed development accords with Policies SP2(6), SP3 and PLA11 of the LDP2013 and the Council's Supplementary Planning Guidance SPG17: Householder Development.

Drainage

The Council's Drainage Officer has assessed the submitted plans and has raised no objection to the proposed development subject to the imposition of a condition to any granted consent regarding a drainage scheme to be submitted and agreed by the LPA prior to any works commencing on the site, which accords with Policy SP2 (13) of the LDP.

Concerns were raised regarding the lack of details regarding the proposed drainage at the site to support the proposed development but this is to be addressed via the imposition of a drainage condition and these details will be formally submitted, assessed and agreed by the Council's Land Drainage Officer. This condition will also address concerns raised at the Development Control Committee site visit regarding the existing surface water drainage system that drains into the disused quarry on the site. BCBC Property Section has confirmed that they are aware of the capture of off-site surface water within the site and this was highlighted in the marketing information. It is envisaged that the drainage scheme will provide sustainable solution for foul and surface water drainage.

The application site does not lie within a Flood Risk Zone as defined by the Welsh Government Development Advice Maps and the disposal of surface water from the site will be dealt with via the imposition of the above condition.

Proposed new access to playing fields

As part of the proposed scheme, there is to be a new 12m x 3m wide vehicular and pedestrian access created to the Cavendish Park Playing fields. The applicant has provided details of the construction of the access and how it will be retained in relation to the change in level by the insertion of steps, the Public Right of Way and the neighbouring residential development of four dwellings. However, it is considered necessary to attach a condition requesting detailed drawings of the above and of the surface finish of the access track to be submitted and approved by the LPA prior to the commencement of works on site to ensure the materials are in keeping with the area and accord with Policies SP2 and SP3 of the LDP.

Green Bank Area/Retaining Wall

The applicant has submitted a site investigation report into the stability of the green bank area and the proposed retaining walls. The green bank area is to be planted up and grassed over and used as informal open space. The Council's Structural Engineer has

assessed the submitted information and the information is considered acceptable and accords with Policy ENV13 of the LDP 2013.

Landscaping

The applicant has submitted a landscaping plan and strategy for the site. The strategy includes native planting and the use of trees and hedge planting within the development.

A copy of the landscaping strategy is provided below:



The proposed landscaping seeks to provide adequate screening and mitigation for the existing residential properties and retain as much biodiversity at the site as possible which seeks to enhance the character and appearance of the area. In view of this, the landscaping proposals are considered acceptable and accord with Policies SP2 (10) and ENV6 of the LDP and the Council's Supplementary planning Guidance SPG19: Biodiversity and Development.

Public Right of Way

A Public Right of Way (PROW) Footpath 29 Newcastle Higher runs through the eastern part of the site. The applicant has proposed and has submitted the relevant application to divert the PROW along the new entrance to the playing field and to join the main highway at Clos Smyrna with the introduction of 12 steps. In view of this, it is considered necessary to attach a condition to any consent granted to request details of a scheme for a pedestrian link to connect both the northern and southern plateaus of the site. The Council's Rights of Way officer has been consulted on this matter and has raised no objection to the proposed diversion.

Other Matters

Biodiversity/Ecology

Section 40 of the Natural Environment and Rural Communities Act 2006 states that 'every public authority must, in exercising its function, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This "duty to conserve biodiversity" has been replaced by a "biodiversity and resilience of ecosystems duty" under Section 6 of the Environment (Wales) Act 2016 which came into force on 21st March, 2016.

Section 6 (1) states that "a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions." Section 6(2) goes on to state that "In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); and, (e) the adaptability of ecosystems.

Regulation 9 of the Conservation of Habitats & Species Regulations 2010 requires LPAs to take account of the presence of European Protected Species at development sites. If they are present and affected by the development proposals, the Local Planning Authority must establish whether "the three tests" have been met, prior to determining the application.

The three tests that must be satisfied are:

1. That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
2. That there is "no satisfactory alternative"
3. That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

Prior to the submission of this application, clearance works were undertaken by the applicant such as the removal of vegetation and works to trees that are not protected. These works did not require the benefit of formal planning permission and were approved under a separate licence granted by Natural Resources Wales.

An ecological assessment of the site has been prepared by David Clements Ecology Ltd and has been assessed by the Council's Ecologist.

The submitted report states that the existing woodland supports a population of slow worm and other reptiles such as the common lizard. Bat activity surveys found at least four species of bat using the site for foraging, including brown long eared bats and myotis bat and that roosting opportunities appear limited. The site supports at least 10 common bird species but the site does not contain or lie immediately adjacent to any statutory sites of nature conservation interests such as Sites of Special Scientific Interest (SSSIs) or Sites for Importance for Nature Conservation (SINC). Further information was submitted by David Clement on 28 February 2018 regarding the works at the site and this was also assessed by the Council's Countryside Officer.

In view of above, the Council's Countryside Officer has raised no objection to the development subject to the works being carried out in accordance with the submitted information and pending the submission of an invasive species survey. On 27 March

2018, an invasive species survey and method statement was submitted and assessed by the Council's Countryside Officer which was considered acceptable. Overall, it is considered that there will be no significant adverse residual impacts on biodiversity. Therefore, the proposal is considered to comply with the requirements of the Habitats Regulations 1994 (as amended), Section 6 of the Environment (Wales) Act 2016, guidance contained within TAN 5: Nature Conservation and Planning (2009) and relevant LDP policies.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with sustainable development principles to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5).

The well-being goals identified in the Act are:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

The duty has been considered in the assessment of this application. It is considered that there would be no significant or unacceptable impacts upon the achievement of wellbeing goals/objectives as a result of the proposed development.

S106 Obligations

Initially, the applicant was advised that, as the application proposes the erection of 20 dwellings, Policy COM5 - Affordable Housing and Policy COM11 - Outdoor Recreation Facilities of the LDP are triggered. With regard to education, no financial contribution would be required as there is currently sufficient capacity provided for in the local catchment schools to accommodate new pupils.

The applicant has engaged in discussions with BCBC throughout the pre-application period with a focus on the viability of the site and the need to meet the requirements of Policy COM5. There are various challenges to the development of this site, each of which has an impact on the profitability of a residential led scheme. These include the topography of the land, the presence of a previously quarried area, the necessary treatment of partial Himalayan Balsam colonisation and the drainage and access solutions required to facilitate the development. The viability appraisal produced by the applicant quantifies all of these abnormal development costs and includes for the provision of 3 units of affordable housing on-site, the costs of meeting highway requirements for two separate access points and provision of a new access to Cavendish Park Playing Field & Play Area to the east to satisfy the requirements of Policy COM11.

The provision of 3 of the 20 units as affordable housing is equal to 15% as opposed to the 20% required by Policy COM5. The affordable provision has been arrived at by a process of negotiation which the applicant has sought to justify through their viability appraisal which has been closely scrutinised. The abnormal costs referred to above have been challenged where felt necessary and the figures relating to construction, revenue and developer profit have been analysed against comparable schemes. The provision of 3 units of affordable housing on-site is felt to be a reasonable compromise between enabling a fair land value to be realised (thus allowing the scheme to proceed) and meeting the affordable housing policy.

The provision of a new access to the adjacent playing fields is considered to fulfil the requirements of Policy COM11 as it will facilitate use by the new residents as well as those residing in adjacent streets subject to its design and finish.

CONCLUSION

The application is recommended for approval because the development complies with Council policy and guidelines and does not have a significantly adverse effect on the character and appearance of the residential area or on the amenities of existing residential properties. All material considerations have been addressed, together with the issues raised at the full Development Control committee site visit, and officers have fully considered and responded to the concerns of local residents. Whilst it is inevitable that new development will have some impact on existing residents, it is considered that the impact will not be unacceptable in planning terms, particularly having regard to the mitigation measures proposed. In addition, it is considered that the development will not have an adverse effect on the biodiversity of the site, drainage, the public right of way or highway safety in and around the site.

RECOMMENDATION

(R34)

(A) The applicant enter into a Section 106 Agreement to provide:-

AFFORDABLE HOUSING

The Owner/Developer to provide 3 affordable housing units on the site to be delivered in accordance with a scheme agreed in writing between the Owner, the Council and a nominated Registered Social Landlord. The affordable housing scheme will include details of the type of units, location within the site, affordable tenure and timescale for delivery.

PUBLIC OPEN SPACE

Establish a 'Management Company' for the future maintenance of the open space and landscaping serving the development. Details of the Management Company, including the funding of the Management Company, and the maintenance regime shall be agreed in writing by the Local Planning Authority to ensure that the maintenance works are carried out in perpetuity.

(B) The Corporate Director Communities be given plenary powers to issue a decision notice granting conditional consent in respect of this proposal once the applicant has entered into the aforementioned Section 106 Agreement, as follows:

1. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:-
 - Application Forms dated 20 December 2017.
 - Amended Site Layout Plan – 2209-01R received on 10 May 2018.
 - Planning Statement prepared by Geraint John Planning received on 20 December 2017.
 - Pre-Application Consultation Report prepared by Geraint John Planning received on 20 December 2017.
 - Design and Access Statement prepared by Geraint John Planning received on 20 December 2017.
 - Tree Survey and Tree Constraints Plans prepared by Tree scene received on 20 December 2017.
 - Ecological assessment prepared by David Clements Ecology Limited received on 20 December 2017.
 - Amended Engineering Strategy – 2209 – 500L received on 10 May 2018.

- Site Investigation Report prepared by Integral Geotechnique received on 8 March 2018.
- Amended Landscaping Strategy Drawing No/ 387.01 REV B received on 10 May 2018.
- Site Location Plan - 2209- 100 received on 20 December 2017.
- Invasive Species Protocol and Method Statement prepared by David Clements Ecology Limited received on 27 March 2018.
- House Type A – 2209 – 101/A Floor Plans received on 20 December 2017 and amended plan House Type A – 2209-102/A Elevations received on 3 April 2018. House Type B – 2209/103/A, 2209 – 104/A, House Type C – 2209/105/A, 2209-106/A, House Type D – 2209-107/A, 2209-108/A, House Type F – 2209-109/A, 2209-110/A and House Type F1 2209-112 received on 20 December 2017.
- Playing Field Link – 2209- 503 received on 9 April 2018.
- Amended site cross sections - 2209-503B received on 10 May 2018.
- 3D images of the development received on 3 April 2018.
- Swept Path Analysis 2209/SK650 received on 7 March 2018.

Reason: To ensure that the impact on amenity and character of the area is acceptable and to mitigate the impact in respect of site drainage, highway safety, contamination, ground conditions, the protection of heritage assets and the sites biodiversity interest.

2. Prior to the construction of the dwellings on site, a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of the dwellings hereby permitted shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: To ensure that the proposed materials of construction are appropriate for use on the development so as to enhance and protect the visual amenity of the area.

3. Prior to the construction of the dwellings on site, a plan indicating the positions, design, materials and type of boundary treatment to be erected and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the agreed plan and timetable and maintained in perpetuity.

Reason: To ensure that the general amenities of the area are protected.

4. No development shall commence on site until a scheme for the comprehensive and integrated drainage of the site, showing how foul, road and roof/yard water will be dealt with, including the future maintenance requirements, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to beneficial use of the site commencing and retained in perpetuity.

Reason: To ensure that effective drainage facilities are provided for the proposed development and that flood risk is not increased.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification) (as amended), no development shall be carried out which comes within Parts 1 (Classes A, B and C) of Schedule 2 of this Order, without the prior permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority future control over the scale of development as well as the installation of new windows or dormers or the extension of the properties to the rear, in the interests of the residential amenities of adjacent properties

and to protect the amenity space provided within the property.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013 (or any Order revoking and re-enacting that Order with or without modification) (as amended), no building, structure or enclosure required for a purpose incidental to the enjoyment of any dwelling-house shall be constructed, erected or placed within the curtilage without the prior written consent of the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the scale of development.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013, or any Order revoking or re-enacting that Order (as amended), no windows other than as hereby approved shall be inserted into the side elevations of the dwellings hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To safeguard the privacy and residential amenities of adjoining neighbouring occupiers.

8. Notwithstanding the details hereby approved under the submitted Site Cross Section and Landscaping Strategy, prior to the construction of any dwellings on the site, revised details of the re-positioning of the hedge to the rear of Nos. 5 and 6 Clos Smyrna, including a planting timetable and schedule, shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented prior to beneficial occupation of the dwellings and shall thereafter be retained in perpetuity.

Reason: To protect the privacy and residential amenities of the occupiers of 5 and 6 Clos Smyrna and to allow sufficient space to maintain the hedgerow.

9. No development shall commence until a scheme for the construction of the proposed access to the sports field detailing any retaining structures, site levels, boundary treatments, surface material to be used on the sports field access and the vehicle restraints used at the entrance of the sports field access route located on the southern plateau, has been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented within 12 months of the date of this consent and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety and to prevent the impact on the approved neighbouring development.

10. No development shall commence until a scheme for the provision of a shared use pedestrian/cycle route linking the northern plateau to the southern plateau has been submitted to and approved in writing by the Local Planning Authority. The shared use route shall be implemented in permanent materials before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of pedestrian and highway safety in and around the site.

11. No development shall commence on site until there has been deposited with the Local Planning Authority a Certificate from a Structural Engineer certifying that the details of the ARMCO vehicle and pedestrian restraint system will be designed and constructed to British Standard EN 1317-1 to -3 and DD ENV 1317-4:2002. The design and constructional details so certified shall be implemented before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway safety.

12. The access road and turning facility for the northern and southern plateaus shall be completed in permanent materials in accordance with the details prior to the development being brought into beneficial use.

Reason: In the interests of highway safety.

13. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - 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
 - v. Wheel washing facilities
 - vi. Measures to control the emission of dust and dirt during construction
 - vii. A scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii. The segregation of users of Footpath 29 Newcastle Higher from the development.

Reason: In the interests of highway and pedestrian safety and to ensure that the highway amenities of the area are not unduly affected.

14. The individual dwelling parking areas shall be completed in permanent materials in accordance with the approved layout prior to the development being brought into beneficial use and retained for the purpose of parking in perpetuity.

Reason: In the interests of highway safety.

15. Street nameplates reflecting the official street name allocated by the Council shall be erected by the developer at locations and to a specification to be agreed with the Local Planning Authority prior to beneficial occupation of the first dwelling house in the street that has been so allocated.

Reason: In the interests of public and highway safety.

16. Prior to the construction of any highway to serve the proposed development, engineering details of any retaining structure abutting or affecting the highway, including calculations certified by a professional engineer, shall be submitted to and approved in writing by the Local Planning Authority. The retaining walls shall be constructed in accordance with the approved details prior to the completion of the first dwelling and maintained in perpetuity.
17. Prior to the commencement of the development, an assessment of the nature and extent of contamination shall be submitted to and approved in writing by the Local Planning Authority. The report of the findings shall include 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; an intrusive investigation to assess the extent, scale and nature of contamination which may be present; an assessment of the potential risks, and; an appraisal of remedial options, and a justification for the preferred remedial option(s). The development shall be implemented in accordance with the approved remediation measures.

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.

18. Site preparation or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.

Reason: In the interests of neighbouring residential amenities.

19. Prior to the construction of the dwellings on site, details of existing ground levels within and adjacent to the site and the proposed finished ground and floor levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory form of development.

* THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

- a) The application is recommended for approval because the development complies with Council policy and guidelines and does not adversely affect the character and appearance of the street scene or wider area. The development does not adversely affect the privacy or visual amenities nor so significantly harms neighbours amenities ecology, drainage, public right of way or highway safety as to warrant refusal
- b) The applicant may need to apply to Dwr Cymru/Welsh Water (DCWW) for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru .com](http://www.dwrcymru.com)
- c) The applicant is also advised that some public sewers and lateral drains may not be recorded on the maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist DCWW in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.
- d) The Public Protection Section draws attention to the possibility of gases (landfill gases, vapours from contaminated land sites and naturally occurring methane and carbon dioxide but not radon gas) being generated at the site or land adjoining thereto and recommends investigation and monitoring of the area.
- e) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing within 2 days to the Public Protection Section, all associated works should stop and no further development should take place until a scheme to deal with the

contamination found has been approved.

- f) Any topsoil [natural or manufactured] or subsoil, to be imported, should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be imported.
- g) Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants free material should be imported.
- h) Any site won material including soils, aggregates, recycled materials should be assessed for chemical or other potential contaminants and only chemical or other potential contaminants material should be reused.
- i) 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 the safe development and secure occupancy of the site rests with the developer.
- j) 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.
- k) In respect of Condition 4, the following information is required:-
 - Confirmation of agreement from DCWW regarding the acceptance of connections to the public sewers for foul, surface water and highway drainage.
 - A final foul, surface water and highway drainage layout.
 - A S104 plan outlining what elements of the surface water network are being offered for adoption to DCWW.
 - A maintenance plan for the highway drainage systems, including proposed maintenance responsibility.
 - Hydraulic calculations to confirm sufficient surface water attenuation has been provided for storm events and sewer networks have been adequately sized for the proposed development.
 - Technical and maintenance details associated with the proposed cellular storage.
 - A maintenance schedule associated with the site wide surface water network.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers

None