

**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 20no. dwellings including 3no. affordable dwellings plus access, car parking, open space, landscaping, drainage and associated engineering works

**RECEIVED:** 20 December 2017

**SITE INSPECTED:** 16 January 2018

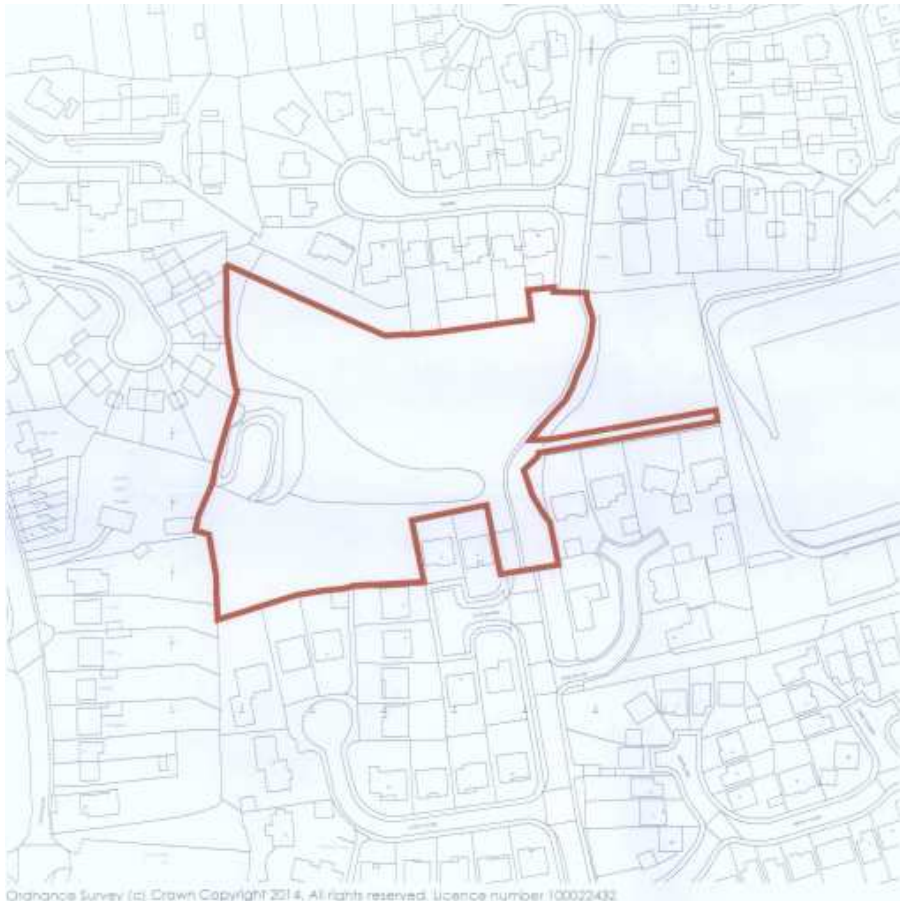
**EOT AGREED:** 1<sup>st</sup> May 2018

### **APPLICATION/SITE DESCRIPTION**

The application seeks full planning permission for the proposed residential development of 20 no. dwellings including 3 no. affordable dwellings plus access, car parking, open space, landscaping, drainage and associated engineering works at Land south of All Saints Way, Pen Y Fai, Bridgend.

The site is approximately 1.14 hectares (2.8 acres) and comprises of 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:  
20/04/2018

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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Cyngor Bwrdeistref Siro



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 that is in private ownership and which 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 of a level surfaced vehicular and pedestrian pathway from the footpath to the playing field.

The proposed site layout comprises of 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 the 9<sup>th</sup> April 2018 which illustrated the correct Public Right of Way route which is to be diverted and re-routed.

#### Proposed Site Layout:



Pen y Fai, Bridgend | Morganstone / Pennant Homes  
Site Layout | 2209-01Q | 1:500 @ A2 | October 2016



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 door. 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 of a kitchen, hall, dining 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 of an internal garage, lounge, dining room, kitchen, utility room and WC at ground floor level and four/five bedrooms, ensuite 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 of 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 of 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.

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

Amended plans were received on the 3<sup>rd</sup> April 2018 which relate to the site levels/cross section plans. The sectional plans now show the proposed houses in relation to the neighbouring properties at Clos Smyrna and Clos y Talcen as this was one of the main concerns of the neighbours.

## Sections between proposed and existing homes :



A new site layout plan was also submitted which shows changes to the PROW (Public Right of Way) diversion and some minor works to the proposed footpaths within the site and proposed access to the playing fields. A further consultation was undertaken with neighbouring properties and 10 letters of objection were received. 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 will prevent families with small children and prams from using the route and elderly residents who regularly use the path.
- Lack of privacy for Nos. 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.
- Concerns of the rear garden security of the wildlife corridor located to the rear of the proposed dwellings both on the northern plateau to the rear of Plot Nos. 1-11 and southern plateau Plot Nos. 15-20 and lack of detail of planting in this area;
- Concerns over loss of privacy to existing residential dwellings due to the proposed three storey houses at Plots 15-20;
- Drainage – concern over the disposal of water from the site on the rear gardens of the existing residential properties;
- Concerns over the proposed material for the boundary walls as the existing walls in the area are brick;
- Concern over ownership, responsibility and maintenance for drainage of the site and the engineered bank.

## **COMMENTS ON REPRESENTATIONS RECEIVED**

The majority of the concerns raised above are addressed within the appraisal section of the report.

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.

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.

## **PLANNING POLICIES**

### **Local Policies**

The Development Plan for the area comprises of the Bridgend Local Development Plan 2006-2021, which was formally adopted by the Council in September 2013, and within which the following policies are of relevance:

- Strategic Policy SP2 – Design and Sustainable Place Making
- Strategic Policy SP3 – Strategic Transport Planning Principles
- Policy PLA1 – Settlement Hierarchy and Urban Management
- Policy PLA11 – Parking Standards
- Policy ENV6 – Nature Conservation
- Policy COM3 – Residential Re-Use of a Building or Land
- Policy COM5 – Affordable Housing
- Policy COM11 -Provision of Outdoor Recreation Facilities

### **Supplementary Planning Guidance**

SPG02 – Householder Development;  
SPG08 – Residential Development;  
SPG13 – Affordable Housing;  
SPG17 – Parking Standards; and;  
SPG19 – Biodiversity and Development.

### **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, part 4.3 and 4.3.1 in particular  
“4.3 Principles

*4.3.1 The following principles underpin our approach to planning policy for sustainable development and reflect those principles that we expect all those involved in the planning system to adhere to:*



- *putting people, and their quality of life now and in the future, at the centre of decision-making;.....*
- *respect for environmental limits, so that resources are not irrecoverably depleted or the environment irreversibly damaged. This means, for example, mitigating climate change, protecting and enhancing biodiversity, minimising harmful emissions, and promoting sustainable use of natural resources;*
- *tackling climate change by reducing the greenhouse gas emissions that cause climate change and ensuring that places are resilient to the consequences of climate change;..”*

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

*9.3.1 New housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and retail development and with community facilities.*

*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)

#### **APPRAISAL**

The application is referred to the Planning 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 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 subject to compliance with the subject areas outlined below.

#### 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 of 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 dwelling 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 are considered to reflect that of the surrounding existing residential housing located at Clos Smyrna , Clos lechyd 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 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 the southern plateau and the row of three storey dwellings, that 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 introduction 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 in this respect.

#### 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 are 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. Whilst the proposed dwellings are located at a slightly higher level than the existing properties 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, it is not considered to result in a significant adverse impact on the privacy and residential amenities these properties currently enjoy.

In relation to No.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. As 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 further any impacts on the existing property.

In relation to the impact of Plot 20 on No.4 Clos Smyrna, it is worth noting that there is a first floor frosted window that serves as a bathroom on the side (northern) elevation of the existing property and, in view of this, it is considered that the proposed development will not have an unacceptable impact on the privacy and residential amenities of this property. With regard to the impact of the development on the 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, the introduction of a landscaped buffer between the two sites and the position of No.4 at a lower level than the proposed dwellings, it is considered that there will be no significant adverse impact on the residential amenities that this property currently enjoys.

It is also considered that whilst there will be a greater impact on No.5 and 6 Clos Smyrna as a result of the location of the proposed access road into the site, however, the amount of noise generated is considered to be limited due to the number of properties in which the road will serve. The proposed access road will also be located at a higher level than the existing properties and in view of this it is considered necessary to attach a condition to any consent granted to request details of a scheme for the erection of a means of enclosure along the rear boundary of both properties (5 and 6 Clos Smyrna) in order to reduce any visual intrusion and to protect the privacy of the current occupiers.

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 Nos. 4, 5 and 6 Clos Smyrna and 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 of 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 has not provided any details of

the vehicle and pedestrian system at the top of the embankment and as such further details have been requested to be submitted via condition 13 to address this concern. The applicant has provided off-street parking which meets the Council's adopted parking standards, SPG17, for new residential dwellings. However it is noted that the proposed visitor parking spaces are substandard in length for a parallel parking space as detailed in SPG17 and therefore a scheme is required to be submitted to address this matter via condition 17.

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 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.

Accordingly, it is considered that the proposed development will not give rise to any unacceptable impact on highway safety and as such accords with Policies SP2(6), SP3 and PLA11 of the LDP 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.

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 details 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 with the existing residential properties and retain as much biodiversity at the site as possible and therefore seeks to enhance the character and appearance of the area. In view of this, the landscaping proposals are considered acceptable and therefore 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 then 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 the 28<sup>th</sup> 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 the 27<sup>th</sup> March 2018, an invasive species survey and method statement was submitted and assessed by the Council's Countryside Officer and 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 been 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 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 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 adversely affect the character and appearance of the street scene or wider area, or affects the privacy or visual amenities nor so significantly harms neighbours amenities ecology, drainage, public right of way or highway safety as to warrant refusal. Notwithstanding the concerns raised in the representations received, it is considered that the development will not give rise to any unacceptable impacts in terms of amenity, ecology or highway safety.

## **RECOMMENDATION**

(R34) That permission be GRANTED subject to the following condition(s):-

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

### **AFFORDABLE HOUSING**

The Owner/Developer to provide for 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 landscape 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 delegated powers to issue a decision notice granting 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 documents:
  - Application Forms dated 20th December 2017.
  - Amended Site Layout Plan – 2209-01Q received on the 18th April 2018.
  - Planning Statement prepared by Geraint John Planning received on the 20th December 2017.
  - Pre-Application Consultation Report prepared by Geraint John Planning received on the 20th December 2017.
  - Design and Access Statement prepared by Geraint John Planning received on the 20th December 2017.
  - Tree Survey and Tree Constraints Plans prepared by Tree scene received on the 20th December 2017.
  - Ecological assessment prepared by David Clements Ecology Limited received on the 20th December 2017.
  - Engineering strategy – 2209 – 500K received on the 9th April 2018.
  - Site Investigation Report prepared by Integral Geotechnique received on the 8th March 2018.
  - Landscaping Strategy Drawing No/ 387.01 REV A received on the 20th December 2017.
  - Site Location Plan - 2209- 100 received on the 20th December 2017.
  - Invasive Species Protocol and Method Statement prepared by David Clements Ecology Limited received on the 27th March 2018.
  - House Type A – 2209 – 101/A Floor Plans received on the 20th December 2017



and amended plan House Type A – 2209-102/A Elevations received on the 3rd 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 the 20th December 2017.

- Playing Field Link – 2209- 503 received on the 3rd April 2018.
- Amended site cross sections - 2209-5011 and site cross sections 2209-503 received on the 9th April 2018.
- 3D images of the development received on the 3rd April 2018.
- Swept Path Analysis 2209/SK650 received on 7th March 2018.

Reason: For the avoidance of doubt as to the nature and extent of the approved scheme.

2. No development shall take place until a detailed specification for, or samples of, the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been 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. No development shall take place until there has been submitted to and agreed in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected and a timetable for its implementation. Development shall be carried out in accordance with the agreed plan and timetable.

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 must be implemented prior to beneficial use.

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 Schedule 2, Part 1, Classes A, B and C 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 works shall be carried out other than those expressly authorised by this permission.

Reason: To enable the Local Planning Authority future control over the scale and extent of the development, in the interests of the residential amenities of adjacent properties and to protect the amount of outdoor amenity space provided within the property.

6. Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any Order revoking and re-enacting that Order with or without modification), no building, structure or enclosure required for a purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected, or placed within the curtilage of dwelling hereby approved.

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

7. No windows other than those hereby approved shall be inserted into the side elevations of the new dwellings.

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

8. No development shall commence until a scheme for the erection of a means of enclosure to be erected to the rear of Nos.5 and 6 Clos Smyrna to include details of design, height and materials of the enclosure has been submitted and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development is brought into beneficial use and retained in perpetuity.

Reason: To protect the privacy and residential amenities of the occupiers of Nos. 5 and 6 Clos Smyrna.

9. No development shall take place until a schedule of landscape maintenance for a minimum period of 3 years has been submitted to and agreed in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the agreed schedule.

Reason: To maintain and improve the appearance of the area in the interests of visual amenity, and to promote nature conservation.

10. 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 before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

11. 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 highway safety and complying with the Active Travel (Wales) Act 2013.

12. No development shall commence until a scheme detailing the type of vehicle and pedestrian restraint system used at the top of the embankment of the northern plateau, has been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development is brought into beneficial use and retained in perpetuity.

Reason: In the interests of highway and pedestrian safety.

13. The access road and turning facility for both of the northern and southern plateaus shall be completed in permanent materials in accordance with details that are to be submitted to and approved by the Local Planning Authority prior to the development being brought into beneficial use. Development shall be carried out in accordance with the agreed

scheme and shall be retained for such purposes in perpetuity.

Reason: In the interests of highway safety.

14. 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.

15. 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.

16. No development shall commence until a scheme for the provision of 4 off street parking spaces for visitors has been submitted to and agreed in writing by the Local Planning Authority. The visitor parking areas shall be completed in permanent materials with the individual spaces clearly demarcated in permanent materials in accordance with the approved layout prior to the development being brought into beneficial use and shall be retained for visitor parking purposes in perpetuity.

Reason: In the interests of highway safety.

17. 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.

18. No development shall commence on site until engineering details of any retaining structure abutting or affecting the highway, including calculations certified by a professional engineer, have been 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.

Reason: In the interests of highway safety.

\* 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, or affects 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 your 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 recommend investigation and monitoring of the area.

d) 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..

e) 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.

f) 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.

g) 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.

h) 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) 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.

j) In respect of Condition 5, the following information is required:

- Provide confirmation of agreement from DCWW regarding the acceptance of connections to the public sewers for foul, surface water and highway drainage.
- Provide a final foul, surface water and highway drainage layout.
- Provide S104 plan outlining what elements of the surface water network are being offered for adoption to DCWW.
- Provide a maintenance plan for the highway drainage systems, including proposed maintenance responsibility.
- Provide 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.
- Provide technical and maintenance details associated with the proposed cellular storage.
- Provide maintenance schedule associated with the site wide surface water network.

**MARK SHEPHARD**  
**CORPORATE DIRECTOR COMMUNITIES**

**Background Papers**  
None