

REFERENCE: P/16/251/OUT

APPLICANT: Mr Robert Vicker Ty Maen, Ffordd Leyshon, Bryncethin, CF32 9TB

LOCATION: Land off Ffordd Leyshon Bryncethin CF32 9TB

PROPOSAL: Up to 9 dwellings with public open space, landscaping, access & associated works (amended no. of dwellings)

RECEIVED: 30 March 2016

APPLICATION/SITE DESCRIPTION

At the Development Control Committee meeting on 22 December 2016, it was resolved that the principle of developing land off Ffordd Leyshon for up to 15 dwellings be consented subject to the landowner entering into a Section 106 Planning Obligation to secure the provision of affordable housing, a play area, contributions to education facilities and off-site highway works and the agreement of a management scheme for the adjacent Site of Importance for Nature Conservation.

The Heads of Terms of the required obligation were offered and accepted by the landowner and the drafting of the Agreement commenced. As part of that process, the landowner was required to submit title plans to confirm the legal interests in the application site. It became apparent that part of the access road that served plots 10, 11 and 12 (see extract plan 01 below) was in the ownership of a third party. Despite repeated requests for the third party to sign the S106 Agreement no further progress has been made.

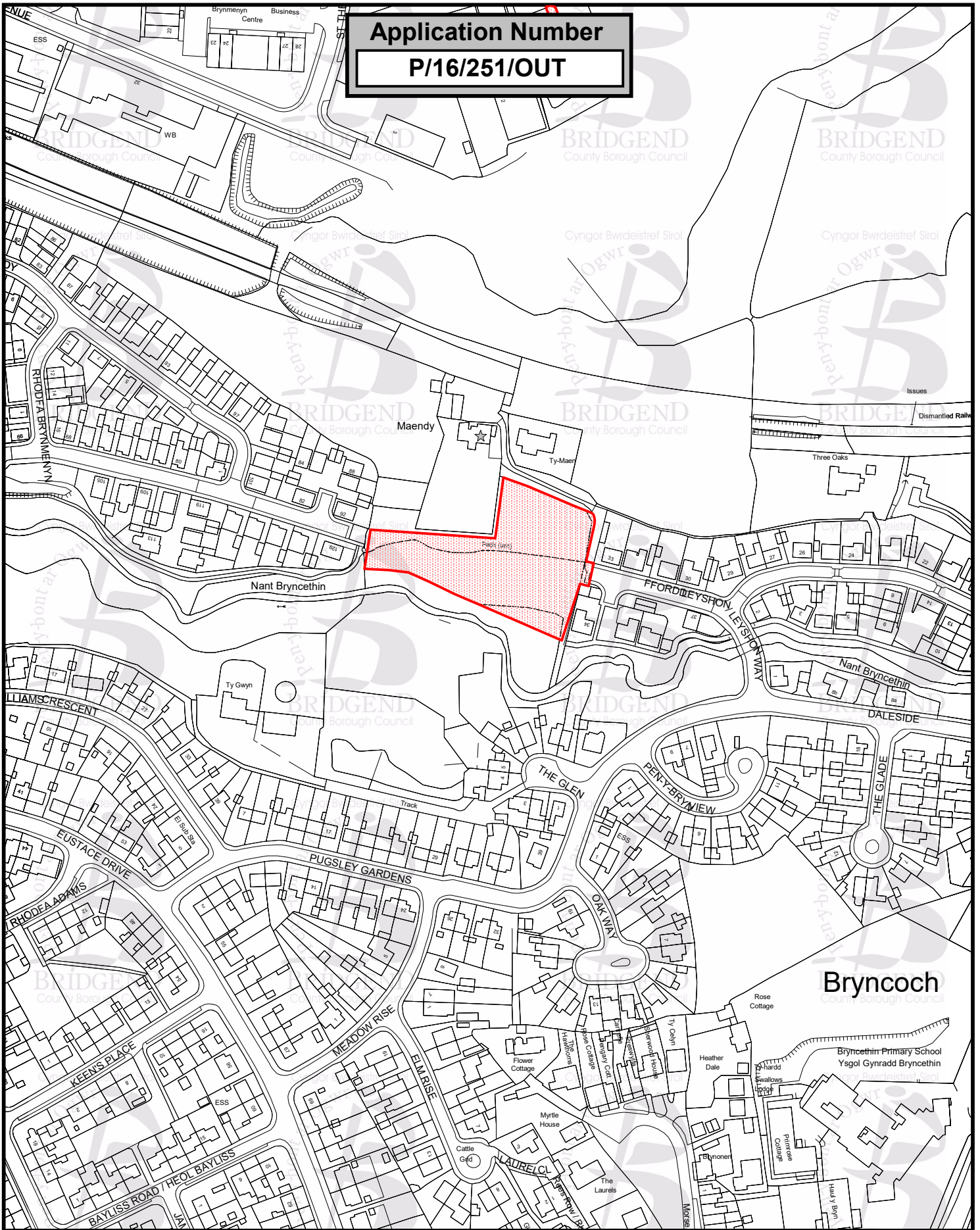


Plan 01 – Extract from Original Site Layout Plan

To allow the application to be progressed and the Agreement to be signed, the applicant has amended the application site boundary to omit plots 10, 11 and 12 and the access that adjoins 33 Ffordd Leyshon and accordingly the disputed land. The description of the application has therefore been changed and now seeks Outline planning consent for residential development of up to 9 dwellings on land that lies to the west of Ffordd Leyshon, Bryncethin. All matters apart from means of access are reserved for future consideration.

Application Number

P/16/251/OUT



Scale 1:1250

Date Issued:
22/08/2018

Development-Mapping
Tel: 01656 643176

Mark Shephard

Corporate Director-Communities

Communities Directorate,
Bridgend County Borough
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O/DC Committee Report Location Maps/

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The site now comprises a single parcel of grazing land, measuring approximately 0.5 hectares which immediately adjoins the tree lined bank of Nant Bryncethin with the eastern boundary shared with 34 Ffordd Leyshon and an existing private drive which serves properties known as Maendy and Ty Maen. The relatively short western boundary adjoins the recently constructed Tyn y Coed housing development and properties on Clos Tyn y Coed. The northern boundary is shared with the large garden and access track that serves Maendy, a Grade II Listed Building.

The application site forms part of a much larger non-statutory designation for nature conservation - the Tyncoed Farm Site of Importance for Nature Conservation (SINC) and also includes a Public Right of Way that passes through the southern parcel of land (Footpath 3 St Brides Minor refers). A further constraint to development is the floodplain of the Nant Bryncethin which crosses the south eastern corner of the development site.

The latest iteration of the 'Illustrative Masterplan' proposes a development of nine properties fronting a new highway, accessed directly from Ffordd Leyshon as an extension of the existing highway. The road will provide pedestrian and vehicular access to the proposed units and will accommodate the section of Public Right of Way that crosses the site. An area of land, adjacent to the garden of the Listed Building has been identified as a 'Local Area of Play.' Plot 1 on the latest illustrative layout has been enlarged in recognition of the updated flood maps which have indicated that the existing access road and part of the site are within the flood plain of Nant Bryncethin.

The precise scale and appearance of the development will be considered at the Reserved Matters stage but the applicant has indicated that 1.5 to 2 storey units will be developed. A table setting the parameters for the buildings has been included in the Design and Access Statement. The dwellings will be finished in materials that will reflect the character and style of the higher quality developments in the vicinity of the application site.

The Design and Access Statement recognises that existing trees and hedgerows provide an important framework to the development and it is intended that all boundary planting will be retained and supplemented where possible. A Tree Survey & Arboricultural Impact Assessment indicates that four Goat Willows (southern boundary of Maendy) and a 26m section of hedgerow (east of Ty Maen) will need to be removed to accommodate the proposed access road. The remaining trees on site will be unaffected by the development and can be safely retained.

A comprehensive assessment of habitats and vegetation has been undertaken, (Ecological Assessment - David Clements Ecology Ltd - November 2015) recognising the sites local designation as a SINC.

A Phase 1 Ground Investigation Report, including a coal mining risk assessment and contamination survey has also accompanied the application

RELEVANT HISTORY

None

PUBLICITY

The application has been advertised on site.

Neighbours have been notified of the receipt of the application and have also been re-consulted in response to the revised description of development and amended application site boundary.

The period allowed for response to consultations/publicity expired on 26 July 2018

CONSULTATION RESPONSES

St Brides Minor Community Council objects to the application for the following reasons:

1. It is outside the settlement boundary
2. It will result in the loss of open space
3. The access road is very narrow and is unsuitable for this development
4. It will result in increased traffic on the A4061
5. Danger of inadequate health services for residents resulting from an expansion of housing developments locally

Destination & Countryside Management: No objection subject to conditions

Head of Street Scene (Drainage): No objection subject to conditions

Natural Resources Wales: Natural Resources Wales have provided updated comments recommending that planning permission should only be granted if conditions can be imposed to manage flood risk on the development site and the implementation of the recommendations in the ecological assessment that accompanied the application.

Welsh Water Developer Services: No objection subject to the imposition of conditions and advisory notes to ensure no detriment to existing residents, the environment or to Dwr Cymru Welsh Water's Assets

Group Manager Public Protection: No objection subject to conditions.

Coal Authority: No objection subject to conditions

South Wales Police: No adverse comments but recommend designing out a number of pedestrian routes. (In this case the routes are either private drives or will accommodate a Public Right of Way and therefore must be retained).

Head of Street Scene (Highways): No objection subject to conditions and to the developer entering into a S106 Obligation to provide a contribution to improving pedestrian links to public transport facilities and reducing traffic speeds on the A4061 thus addressing a highway safety concern.

Bridgend Ramblers object on the basis that the Right of Way will be obstructed by the proposed development.

Rights of Way Officer: The Public Right of Way is to remain on its current definitive alignment thus avoiding the need to divert the Public Right of Way if planning permission is granted. In view of the information contained within the email from the applicant's agent, the proposal would be acceptable to the Rights of Way section.

REPRESENTATIONS RECEIVED

Letters of objection have been received from the following residents:

B Evans 28 Ffordd Leyshon
Ken Cross 29 Ffordd Leyshon
Jean Phillips 30 Ffordd Leyshon (Speaker) (two letters)
Jonathan Ellis 31 Ffordd Leyshon
Barry & Diana Pyle 33 Ffordd Leyshon
Sarah Louise Spear 33 Ffordd Leyshon
Glen Newberry 36 Ffordd Leyshon
Mr Wheller 37 Ffordd Leyshon

Richard Roberts 82 Clos Tyn Y Coed
R Williams & K Cooper 88 Clos Tyn Y Coed (two letters)
Craig Brett 90 Clos Tyn Y Coed
Craig Richardson Maendy C/O109 Joo Chiat Place, Singapore

The following is a summary of the objections received:

1. The site is outside of the settlement boundary;
2. Loss of green space/open space - less safe environment for children;
3. Schools and surgeries cannot cope with additional population;
4. Create additional traffic onto the local network including Ffordd Leyshon and the A4061 affecting flow of traffic along the route and through the light controlled junctions – difficult to access the highway at peak times;
5. Poor access to those plots to the north/rear of Ffordd Leyshon which will border onto number 33;
6. Issues with waste recycling - no dedicated place to put waste/recycling.
7. The development will have a negative visual impact; the development will affect the character of the neighbourhood - we will lose our existing views - the houses will take away my privacy and light;
8. Loss of trees and wildlife;
9. Impact on the setting of a Grade II Listed Building
10. Drainage problems joining onto the system in Clos Tyn Y Coed and neighbouring housing developments - already had drainage issue on our site and with this new development would put extra pressure on the existing system - Concerns about flooding as a result of the development and removal of the underlying culvert;
11. There will be increased noise levels during the development and once it has been completed
12. Site of former coal mine - ground conditions could be a concern,
13. Reduce the value of houses in the area - residents should be compensated.

COMMENTS ON REPRESENTATIONS RECEIVED

The application site is allocated for residential development, as part of the Parc Tyn y Coed housing allocation (Policy COM1 (32) of the Bridgend Local Development Plan refers). The northern parcel, now omitted from the application lies outside the allocation but falls within the settlement boundary of the 'Valley Gateway Settlement' of Bryncethin where Policy COM3 states that the re-use of vacant land for residential development will generally be permitted.

2. The area does form part of a larger site that is important for nature conservation and a reasonably attractive green space between two existing areas of housing. Public access along the Right of Way has encouraged recreational uses across the wider area but the land is privately owned and is not allocated or offered formal protection as an area of open/play space. Informal recreation provision and opportunities for formal play exist on

two large areas of play space in the Tyn y Coed development to the west.

3. A deficiency in social facilities is a material planning consideration and current school capacities indicate that Bryncethin Primary School is currently oversubscribed. In accordance with SPG 15: Residential Development and Educational Facilities, a contribution will be sought to address this deficit.

Health service provision is a matter controlled by Welsh Government and the Health Boards and is not material to the determination of this application. Members should be mindful that Abertawe Bro Morgannwg Health Trust were informed of the Council's housing allocations as part of the process of preparing the Bridgend Local Development Plan.

4 & 5 The Transportation Policy and Development Section are seeking to introduce measures that will improve flows through the Daleside/A4061 junction by reducing traffic speeds on the principal route and are requiring the provision of 'missing' footways on Daleside to improve connectivity between the site and public transport facilities.

Subject to a contribution toward providing improvements to the pedestrian links and crossing facilities to the A4061 being secured through the S106 Obligation, there is no objection to the development on highway safety grounds. It was previously acknowledged that the existing private drive access that was to serve the units to the north of the site did not achieve an acceptable design in terms of vision and would need to be re-positioned as part of any future application. This is now however omitted from the application.

6. The future estate layout will need to be designed to allow access by the Council's waste collection and recycling vehicles. Most challenging would have been plots 10-12 which would have been served by a new private drive. This is now omitted from the current application.

7. The development will result in the loss of this area of open space and visual break between existing areas of housing which local residents have clearly used for informal recreational purposes. The character of the area will change but in a manner that is accepted by the Council's Development Plan which allocates the site for housing. Public access via the Right of Way will be retained and an area of open space will be provided. Furthermore, the important trees that frame the site and will be retained will assist in limiting the impact of the development on its surroundings.

Comments from residents on matters relating to loss of light and privacy have been informed by the 'Illustrative Masterplan' but this is only a guide, as matters such as the scale, design and siting of the housing on this land will be reserved for future detailed consideration. With the omission of plots 10-12, the development no longer has any direct impacts with regard to privacy/overshadowing on 29-32 Ffordd Leyshon.

No. 33 is separated from application site by a private drive that serves Maendy and Ty Maen. This property does however include side facing habitable room windows that currently have an unrestricted view over the application site. Representations received from the current occupier indicate that the main living room window is at first floor level some 8-10m from the side of plot 9. The objector has quoted planning guidance from Wrexham Council that recommends 22m between two directly facing habitable room windows and 13m where a habitable room faces a blank wall of a neighbouring property.

Unreasonable domination is an issue from this Council's perspective where a main window to a habitable room in an adjacent dwelling, will directly overlook a proposed development. For unreasonable domination to be demonstrable, the development must be

either: (a) higher than a line, perpendicular to the window wall, rising at 25 degrees to the horizontal from the mid-point of the affected windows or (b) closer than 10.5 metres to the window.

As this application only seeks to agree the principle of the development, no information is currently available as to the finished site levels, the final design and position of the dwelling. Although the separating distance is less than the recommended, it is unlikely that daylight protection would be infringed when considered in respect of the first floor window. It is also noted that plot 9 is set back within the plot and there may be further opportunity to site the unit to lessen its impact on the occupiers of the adjacent dwelling. The new dwelling could also be designed so as not to include any side facing habitable room windows. Conditions have been imposed to manage the future development in the interests of safeguarding the amenities of the adjacent occupiers.

No. 34 also immediately adjoins the eastern boundary of the development site and like No.33 has habitable room windows on the side of the dwelling. In an attempt to overcome the concerns of Natural Resources Wales and pull all development from within the flood plain, the dwelling on plot 1 will have its side elevation some 20m from No.34. The open outlook will be affected but in a manner that accords with the Council's guidelines. The overlooking will be from No 34 which will limit the levels of privacy afforded to the occupiers of new plot 1. This will need to be carefully considered at the detailed application stage.

The indicative relationship of the new development to all existing properties has been considered and there appears to be no evidence to suggest that new housing on this site cannot satisfactorily address the relevant policies and guidelines for such developments.

8. A comprehensive ecological assessment accompanies the application which considers the potential impact of the development on the SINC, notable plant species, habitats and fauna including bats, otter, dormouse etc. The Council's Ecologist accepts the findings of the report which indicate that the loss of the grassland, which is part of the wider SINC, will be acceptable if the adjacent woodland, hedgerows and watercourses are mitigated for during and post development. A number of conditions will be imposed on any development to protect the broadleaved woodland and protected species through the agreement of a site clearance method statement and a lighting design strategy. A pollution prevention scheme will also be required to prevent discharge of effluent to the existing watercourse. On the basis of the submitted evidence and subject to certain controls on development, the scheme will accord with both local and national policies in terms of protecting biodiversity interests on this site.

9. The wider setting of the Listed Building has changed in recent years with the development of the Parc Tyn y Coed housing allocation. The farm buildings are set within a large garden and screened by established planting which will not be affected by the development. The submitted plan is a reasonably well considered approach to development that will ensure that the Building's character and setting will not be adversely affected.

10. Drainage issues have been considered by the Council's Land Drainage Section and Natural Resources Wales and the location of the site close to the flood risk zone of the Nant Bryncethin has been noted. Foul water is to be disposed of to the mains sewer, a section of which may need to be diverted to accommodate the development. SUDS (Sustainable Urban Drainage System) will discharge surface water although no details of the drainage arrangements have been submitted. No fundamental objections have been offered by the Statutory Consultees subject to the developer submitting and agreeing a comprehensive and integrated drainage scheme prior to development commencing.

11. Noise during construction is an inevitable consequence of development but not grounds to refuse permission. Conditions could be imposed at the detailed stage to agree a Construction Management Plan. Other legislation also exists to control noise and/or air pollution that may constitute a statutory noise nuisance.

12. The Coal Mining Risk Assessment that was submitted with the application indicated that the site was likely to have been subject to historic unrecorded underground coal mining at shallow depth. In order to mitigate potential workings, the applicant's report recommends that intrusive site investigation works are undertaken prior to development to establish the exact situation regarding ground conditions and to enable appropriate remedial measures to be identified. The Coal Authority and the Council's Public Protection Department have recommended the imposition of a number of planning conditions that would address the objectors' concerns.

13. Devaluation of property is not a material planning consideration

APPRAISAL

The application is referred to Committee to consider the objections raised by local residents and the Community Council.

Outline planning consent is sought for residential development of up to 9 dwellings on land that lies to the west of Ffordd Leyshon, Bryncethin. All matters apart from means of access are reserved for future consideration.

The application site lies within the main settlement of the 'Valley Gateway Settlements' (which includes Bryncethin) as defined by Policy PLA1 of the Bridgend Local Development Plan (LDP). The site forms part of the LDP allocation COM1 (32) which promotes 323 dwellings at Parc Tyn y Coed. The Parc Tyn y Coed housing allocation is a site where the Council will promote the provision of accessible natural greenspace, wherever suitable opportunities arise. Whilst the development will result in the loss of part of the larger SINC, connectivity via the Public Rights of Way network will retain access to the areas of natural greenspace that form part and lie adjacent to the existing areas of housing to the west. Policy COM13 (6) is therefore not compromised by the development.

In accordance with Policy SP14 of the LDP, new development often creates the need for planning obligations to be provided to offset any negative impacts of development. For a development site exceeding 0.5 hectares, Policy COM5 of the LDP requires 20% of the proposed housing to be affordable. As such 2 of the dwellings should be provided as affordable housing to be transferred to the RSL with an appropriate tenure to be agreed between the applicant and the Housing Strategy Department.

Policy COM11 of the LDP requires the provision of a satisfactory standard of open space from all residential developments which is defined as 2.4 hectares per 1000 people. The Council's open space audits reveal a deficit of provision in this locality. The indicative masterplan proposes the provision of an area of public open space. This will be secured through the S106 with full details of landscaping and maintenance to be agreed by the Council at Reserved Matters stage. Existing open space and playing facilities are also located in close proximity to the site.

With regards to education, the scheme meets the threshold of 5 or more residential units identified in SPG 16 as being large enough to place increased pressure on local educational facilities. The Children's Directorate have confirmed that there is sufficient capacity in the local secondary schools but the local primary school is oversubscribed, (Bryncethin Primary School). Given the lack of capacity, a contribution will be required to

facilitate extra space to be created to accommodate the likely demand arising from the development. According to the formula contained in the SPG and the number of units, the proposal will generate 3 pupils requiring a contribution of £48,939.

Improvements to the pedestrian links and crossing facilities on the A4061 will also be sought with the contribution totalling a maximum of £30,000 but this will be dependent on the final number of dwellings.

The aforementioned infrastructure improvements can be secured by way of a planning obligation.

Policy SP2 of the LDP requires all development to contribute to creating high quality, attractive, sustainable places, which enhance the community in which they are located, whilst having full regard to the natural, historic and built environment and establishes fifteen criteria against which development proposals will be assessed. As indicated in the earlier sections of this Report, the application is in Outline with all matters apart from means of access reserved for future consideration. Whilst the submitted illustrative layout and supporting documents indicate the points of access and parameters of the development, they do not constitute the details. The design, appearance and landscaping details do not form part of this application and, as such, it is not possible to fully assess the proposals against all the criteria of the aforementioned policy.

There are constraints to the development of this site which will need to be assessed for any future scheme to properly address the policies and guidelines of the Council. The relationship of the new houses to existing and the internal arrangements will need to respect the Council's privacy standards to ensure that the living conditions of the adjoining neighbours and future occupiers will not be adversely affected; conditions will be imposed to guide the future development.

The submission does satisfactorily address a number of other criteria in that it proposes a density of development that maximises the site's potential whilst respecting the character of the surrounding development. Whilst it does represent 'greenfield' opposed to 'brownfield' development, it accords with the site's allocation in the Local Development Plan.

Being located in the settlement of Bryncethin, it will be relatively close to existing social and community facilities which will have good connections to the road network and public transport which will be proportionally enhanced in the manner described above.

Minimising opportunities for crime to be generated or increased can be achieved through careful design at the Reserved Matters stage and having regard to the advice of the Police Designing out Crime Officer. Whilst the provision of links through the site conflicts with Police advice, in this case it must be retained to accommodate the Public Right of Way and links to areas of natural greenspace in the housing development to the west.

Minimising noise, air and water pollution should only be matters of concern at the construction stage and conditions can be imposed to prevent conflict with the Council's policies. Pollution prevention guidelines are published by Natural Resources Wales but due to the sensitivities of the site, a condition will be included in any permission granted preventing the discharge of effluent to Nant Bryncethin.

Himalayan Balsam and Japanese Knotweed are recorded on site with the latter being more prevalent. A condition will be imposed requiring the agreement of a scheme for containment, control and removal of non-invasive species on site.

As indicated in the previous section of the report, a comprehensive ecological assessment has accompanied the application, the findings of which are accepted by the Council's Ecologist. A number of conditions will be imposed on any development to protect the broadleaved woodland and protected species through the agreement of a site clearance method statement and a lighting design strategy. Consideration is also being given to protecting the trees within the riparian corridor by a Tree Preservation Order. Whilst they are not directly threatened by the development, their retention and the agreement of a long term management plan for the remainder of the SINC that forms part of the application site will represent compensation for the loss of part of the SINC, thus also addressing Policies ENV4, ENV5 and ENV6 of the LDP.

It is considered that the biodiversity interests of the site have been identified in the Ecology Report and the required mitigation works will be the subject of planning conditions. This requirement reflects Section 40 of the Natural Environment and Rural Communities Act 2006 which 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"

Given the nature of the application site and the proposed safeguarding, mitigation measures, it is considered that, overall, there will be no significant adverse residual impacts on biodiversity.

Almost all matters of detail have been reserved for future consideration and therefore it is not possible to assess in detail the relationship with existing properties and uses. Whilst the development of the land will inevitably have some impact on the existing residents, the indicative masterplan and subsequent compliance with the recommended conditions should ensure that the living conditions and well-being of the existing residents are reasonably safeguarded.

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 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

Appropriate arrangements for the disposal of foul sewage, waste and water will be secured through planning conditions.

One of the consequences of climate change will be more floods, following extreme weather events and the basis of national policy is to avoid development in areas where the consequence of flooding will be unacceptable. As a result of recent up-dates in the NRW's Flood Map information, plot 1 and the site access (the existing highway which forms the western end of Ffordd Leyshon) are considered to be at fluvial risk. NRW have recommended that either a Flood Consequence Assessment is undertaken or that plot 1 is omitted. Whilst the latest version of the masterplan has the garden of plot 1 within the flood zone, built development has been omitted. It is intended that a condition will be imposed excluding any development from within the flood zone and this arrangement has been accepted by NRW.

Notwithstanding the local objections and those of the Community Council, the application site is capable of accommodating dwellings to meet the policy requirements. During the processing of the application Policies PLA1, COM3, COM4, COM5 and SP2 of the Bridgend Local Development Plan were considered

CONCLUSION

This application is recommended for approval because the development complies with Council policy and guidelines and does not adversely affect privacy, highway/pedestrian safety, ecology/biodiversity, drainage or visual amenities nor so significantly harms neighbours' amenities as to warrant refusal.

The development can contribute to creating a high quality, attractive, sustainable place compatible with the surrounding area and Policy SP2 of the Local Development Plan. Legislation and National planning policy dictates that planning applications must be determined in accordance with the approved Development Plan unless material circumstances suggest otherwise. In this case, notwithstanding the objections received, it is considered that there are no material reasons why planning permission should be refused.

RECOMMENDATION

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

(i) Provide 20% of the units as affordable housing units in accordance with the Affordable Housing Supplementary Planning Guidance (SPG). The Section 106 Agreement will provide for these units to be transferred to a Registered Social Landlord, with the type of units, location within the site, affordable tenure, transfer price and timescale for delivery to be agreed by the Council.

(ii) Provide a financial contribution in accordance with the Educational Facilities Supplementary Planning Guidance (SPG) formula towards the provision of additional primary school places in the school serving the development; this figure being dependent on the final development mix and numbers with contributions provided on a pro-rata basis.

(iii) Provide an outdoor recreation facility (Local Area of Play) in accordance with Policy COM11 of the Bridgend Local Development Plan and to submit and agree as part of the Obligation the arrangements for future management and maintenance of this outdoor recreation facility.

(iv) Provide a financial contribution, prior to the commencement of development, toward the provision of a central pedestrian refuge on Route A4061 (in the proximity of the junction with Daleside) with the figure being dependent on the final development mix and numbers with the contribution provided on a pro-rata basis.

(v) Provide a management scheme for the long term maintenance of the remainder of the 'Site of Importance for Nature Conservation' that is within the ownership of the applicant to compensate for the loss of part of the SINC to development.

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

1. Details of the access, appearance, landscaping, layout and scale (hereinafter called "the Reserved Matters") shall generally accord with the following plans and documents but subject to the requirements of all other planning conditions:

'Illustrative Masterplan' BRYN-02 Revision D received on 2 July 2018

Design and Access Statement - March 2016

Ecological Assessment - David Clements Ecology Limited - November 2015

Desk Study and Site Reconnaissance - ERG - October 2015

Trees Survey and Arboricultural Impact Assessment - 28 April 2016

Reason: To avoid doubt and confusion as to the nature and extent of the approved development

2. The consent hereby granted shall be limited to the construction of no more than 9 dwellings and details of the appearance, landscaping, layout, and scale, (hereinafter called "the Reserved Matters") shall accord with the following requirements:

- No development is permitted in the 1% and 0.1% fluvial flood outline of Nant Bryncethin and therefore within the area hatched in blue on the 'Illustrative Masterplan' BRYN-02 Revision C received on 24 November 2016;
- A distance of 21m between directly facing habitable room windows, in relation to existing properties;
- The dwellings on Plots 1 and 9 being sited a minimum distance of 12m from the side facing habitable room windows in 33 and 34 Ffordd Leyshon respectively;
- The dwellings on Plots 10-12 (inclusive) not exceeding 1.5 storeys in height, as indicated in page 17 of the Design and Access Statement;
- Car parking provision in accordance with SPG 17 – Parking Standards;

Reason: In the interests of safeguarding the living conditions of existing and future residents and highway safety

3. No development including any site clearance works shall commence until a clearance method statement, providing details for avoidance of harm to reptiles, nesting birds and for detailing the containment, control and removal of invasive non-species (Himalayan Balsam) on site has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: In the interests of promoting nature conservation.

4. No tree on site shall be cut down, uprooted or destroyed nor shall any tree be topped or lopped without the written agreement of the Local Planning Authority.

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

5. In this condition "retained tree" means an existing tree which is to be retained in accordance with the future development of this site and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the last occupation of any building for its permitted use:

(a) No retained tree shall be cut down, uprooted, destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor shall any excavation be made.

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

6. Any submission for approval of Reserved Matters or Full application shall include details of the proposed floor levels of the buildings in relation to existing ground levels and the finished levels of the site. The development shall thereafter be carried out in accordance with the agreed details.

Reason: To ensure the development relates appropriately to the topography of the site and the surrounding area

7. Any submission for approval of Reserved Matters or Full application shall include a comprehensive and integrated drainage of the site showing how foul drainage, highway, surface water, including the means to prevent run off from driveways and parking bays discharging onto the highway, roof and yard water will be dealt with. The development

shall thereafter proceed in accordance with the agreed comprehensive and integrated drainage scheme prior to any dwelling being brought into beneficial occupation.

Reason: To ensure safe drainage of the site

8. Any submission for approval of Reserved Matters or Full application shall include a Construction Environment Management Plan (CEMP) detailing all necessary pollution prevention measures for the operational and post operational phase of the development. The (CEMP) shall identify as a minimum:

(a) Storage facilities and emergency containment for all fuels, oils, chemicals and explosives and any other polluting substances;

(b) Construction compounds, car parks, offices etc.

(c) Details of surface water drainage arrangements to be installed to intercept and treat contaminated surface water run-off;

(d) Works timing and phasing of works/responsible proactive construction ;

(e) Details of maintenance of site access/haulage roads to ensure no polluting discharge;

(f) Measures for dealing with any contaminated material (demolition waste or excavated waste);

(g) Environmental Monitoring Schemes and Environmental Protection methods;

(h) Details of emergency contacts;

The (CEMP) should then be efficiently communicated to all contractors and subcontractors and implemented throughout the period of construction.

Reason: To prevent pollution

9. The development shall be served by a single vehicular access formed by an extension to the western end of Ffordd Leyshon.

Reason: In the interests of highway safety.

10. The access hereby approved shall be at a gradient not steeper than 8.3% (1 in 12).

Reason: In the interests of highway safety.

11. The site shall be provided with a pedestrian/cycle access to the western site boundary to provide for connectivity to the adjacent Tyn y Coed development prior to the beneficial occupation of the first dwelling.

Reason: In the interests of highway safety.

12. Any submission for approval of Reserved Matters or Full application shall include a Construction Management Plan. The Construction Management Plan shall include: -

- Provision of a temporary compound for construction materials and plant and parking for contractor's vehicles;

- Details of a wheel washing scheme to prevent mud and debris from the construction traffic being carried out onto the existing maintainable highway.

Any construction works at the site shall thereafter be undertaken in accordance with the Construction Management Plan.

Reason: In the interests of highway safety and to ensure that the Local Planning Authority retains effective control over the development in the interests of general amenity.

13. No development shall take place until a site investigation has been carried out in accordance with a methodology first submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be submitted to the Local Planning Authority before any development begins. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted to and approved in writing by the Local Planning Authority. Remedial measures shall be carried out prior to the first beneficial use of the development in accordance with the approved details and retained in perpetuity.

Reason: In the interests of safety

14. If during the course of development, any unexpected land instability issues are found which were not identified in the site investigation referred to in condition 13 additional measures for their remediation in the form of a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures which shall be retained in perpetuity.

Reason: In the interests of safety

15. Prior to the commencement of any development works a scheme to investigate and monitor the site for the presence of gases* being generated at the site or land adjoining thereto, including a plan of the area to be monitored, shall be submitted to the Local Planning Authority for its approval.

Following completion of the approved monitoring scheme, the proposed details of appropriate gas protection measures to ensure the safe and inoffensive dispersal or management of gases and to prevent lateral migration of gases into or from land surrounding the application site shall be submitted to and approved in writing to the Local Planning Authority. If no protection measures are required no further actions will be required.

All required gas protection measures shall be installed and appropriately verified before occupation of any part of the development which has been permitted and the approved protection measures shall be retained and maintained until such time as the Local Planning Authority agrees in writing that the measures are no longer required.

* 'Gases' include landfill gases, vapours from contaminated land sites and naturally occurring methane and carbon dioxide, but does not include radon gas. Gas Monitoring programmes should be designed in line with current best practice as detailed in CIRIA 665 and or BS8485 year 2007 Code of Practice for the Characterization and Remediation from Ground Gas in Affected Developments,.

Reason: To ensure that the safety of future occupiers is not prejudiced.

16. 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. This assessment shall be carried out by or under the direction of a suitably qualified competent person in accordance with BS10175 (2011) Code of Practice for the Investigation of Potentially Contaminated Sites and shall assess any contamination on the site, whether or not it originates on the site.

The report of the findings shall include:

- (i) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- (ii) an assessment of the potential risks to:
 - human health,
 - groundwaters and surface waters
 - adjoining land,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - ecological systems,
 - archaeological sites and ancient monuments; and
 - any other receptors identified at (i)
- (iii) an appraisal of remedial options and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition shall be conducted in accordance with Welsh Local Government Association and the Environment Agency Wales' 'Development of Land Affected by Contamination: A guide for Developers' (2012).

Reason: To ensure that 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.

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

All work and submissions carried out for the purposes of this condition shall be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (July 2006).

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land , neighbouring land, controlled waters, property and ecological systems are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

18. The remediation scheme approved by condition 17 shall be fully undertaken in accordance with its terms prior to the occupation of any part of the development. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Within 6 months of the completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

All work and submissions carried out for the purposes of this condition shall be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR 11' (September 2004) and the WLGA / WAG / EA guidance document ' Land Contamination: A guide for Developers' (July 2006).

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

19. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 2 days to the Local Planning Authority, all associated works must stop and no further development shall take place until a scheme to deal with the contamination found has been approved. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme and verification plan must be prepared and submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority. The timescale for the above actions shall be agreed with the Local Planning Authority within 2 weeks of the discovery of any unsuspected contamination.

Reason: To ensure that any unacceptable risks from land contamination to the future users of the land, neighbouring land, controlled waters, property and ecological systems are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

20. Any topsoil [natural or manufactured] or subsoil to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development site to verify that the imported soil is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the Local Planning Authority.

Reason: To ensure that the safety of future occupiers is not prejudiced.

21. Any aggregate (other than virgin quarry stone) or recycled aggregate material to be imported shall be assessed for chemical or other potential contaminants in accordance with a scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority in advance of its importation. Only material approved by the Local Planning Authority shall be imported. All measures specified in the approved scheme shall be undertaken in accordance with the relevant Code of Practice and Guidance Notes.

Subject to approval of the above, sampling of the material received at the development

site to verify that the imported material is free from contamination shall be undertaken in accordance with a scheme and timescale to be agreed in writing by the Local Planning Authority.

Reason: To ensure that the safety of future occupiers is not prejudiced

22. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material which meets site specific target values approved by the Local Planning Authority shall be reused.

Reason: To ensure that the safety of future occupiers is not prejudiced.

23. No development shall begin until a detailed method statement for the removal, treatment and control of Himalayan Balsam and Japanese Knotweed on the site has been submitted to and approved in writing by the Local Planning Authority. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: To ensure a satisfactory form of development and to ensure that the safety of future occupiers is not prejudiced.

24. * THE FOLLOWING ARE ADVISORY NOTES NOT CONDITIONS

This application is recommended for approval because the development complies with Council policy and guidelines and does not adversely affect privacy, highway/pedestrian safety, ecology/biodiversity, drainage, visual amenities nor so significantly harms neighbours' amenities as to warrant refusal.

The development can contribute to creating a high quality, attractive, sustainable place compatible with the surrounding area and Policy SP2 of the Local Development Plan. Legislation and National planning policy dictates that planning applications must be determined in accordance with the approved Development Plan unless material circumstances suggest otherwise. In this case, notwithstanding the objections received, it is considered that there are no material reasons why planning permission should be refused.

Dwr Cymru Welsh Water has provided the following advisory notes:

- * Foul water and surface water discharges shall be drained separately from the site
- * No surface water shall be allowed to connect either directly or indirectly to the public sewerage system unless otherwise agreed in writing by Dwr Cymru Welsh Water.
- * Land drainage run off shall not be permitted to discharge either directly or indirectly to the public sewerage system.

The applicant should be made aware of their duty of care and responsibilities under the Wildlife and Countryside Act 1981, Schedule 9, Section 14 (as amended by the CROW Act 2000) whereby it is an offence to deliberately cause invasive species to grow in the wild. Under the Environmental Protection Act 1990 soil contaminated with Japanese Knotweed & or Himalayan Balsam is classed as controlled waste and under the Environmental Protection (Duty of Care) Regulations 1991 it can only be disposed of at a registered site and with a waste licence.

The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

(i) determining the extent and effects of such constraints;

(ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates/ soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under Section 33 of the Environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site;

- Unprocessed/unsorted demolition wastes
- Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances
- Japanese Knotweed stems, leaves and rhizome infested soils. In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and the safe development and secure occupancy of the site rests with the developer.

MARK SHEPHARD
CORPORATE DIRECTOR COMMUNITIES

Background Papers
None