



PLANNING AND DEVELOPMENT CONTROL COMMITTEE

2.00 PM - TUESDAY, 21 OCTOBER 2014

COUNCIL CHAMBER - PORT TALBOT CIVIC CENTRE

PART 1

1. To receive any declarations of interest from Members.
2. To receive the Minutes of the previous meeting held on 30th September 2014 (*Pages 1 - 20*)
3. To receive the Minutes of the Planning Site Visits Sub Committee on 9th October 2014 (*Pages 21 - 24*)

Report of the Head of Planning

Index of Items

Planning Applications Recommended for Approval

4. APPLICATION NO: P2014/0402 (*Pages 29 - 70*)
Variation of condition 1 of Planning Permission P2007/1413 (Granted on Appeal on the 07.05.09) to allow for the extension of time for the commencement of development and variation of conditions 3 (reference to all works in Environmental Statement and to allow a maximum tip height of 100m and maximum blade diameter of 82m), 9 (borrow pits), 14 (highway improvement works to facilitate revised access route) and 15 (internal access tracks) - MYNYDD Y GWRHYD, North of Pontardawe, East of Cwmgors

5. APPLICATION NO: P2014/0713 (*Pages 71 - 76*)
Change of Use from Sports Club (Sui Generis) to Public House (A3)
Croeserw Working Mens Club, Brynheulog Road, Croeserw Cymmer
SA13 3RS

Planning Application Recommended for Refusal

6. APPLICATION NO: 2014/0496 (*Pages 77 - 90*)
Retention of self contained residential dwelling and associated car parking.
Crosswinds, 39 Cimla Common, Cimla, Neath SA11 3SU
7. Proposed Confirmation of Tree Preservation Order - TPO NO: T328
(*Pages 91 - 94*)
Land at rear of 5 Channel View, Bryncoch, Neath

MATTERS FOR INFORMATION

8. Appeals Received (*Pages 95 - 96*)
9. Appeals Determined (*Pages 97 - 98*)
10. Delegated Applications Determined between 23rd September 2014 and
13th October 2014 (*Pages 99 - 108*)
11. Any urgent items at the discretion of the Chairman pursuant to Section
100B(4)(b) of the Local Government Act 1972.

S.Phillips
Chief Executive

Civic Centre
Port Talbot

Wednesday, 15 October 2014

Committee Membership:

Chairman: Councillor R.G.Jones

Vice Chairman: Councillor J.Warman

Members: Councillors Mrs P.Bebell, J.R.Bryant, A.Carter, Mrs.A.Chaves, Ms.C.Clement-Williams, D.W.Davies, Mrs.R.Davies, Mrs.J.Dudley, M.Ellis, J.S.Evans, C.P.Golding, P.Greenaway, S.K.Hunt, I.B.James, A.Jenkins, Mrs.D.Jones, E.E.Jones, M.Jones, S.Jones, D.Keogh, E.V.Latham, Mrs.M.A.Lewis, A.R.Lockyer, J.Miller, J.D.Morgan, Mrs.S.Paddison, Mrs.K.Pearson, Mrs.S.M.Penry, D.M.Peters, M.Protheroe, L.M.Purcell, S.Rahaman, H.G.Rawlings, C.E.Richards, A.J.Siddley, A.Taylor, A.L.Thomas, R.Thomas, D.Whitelock, I.D.Williams, Mrs.L.G.Williams, Mrs.A.Wingrave and A.J.Taylor
Plus 1 Vacancy

Cabinet UDP/LDP Member: Councillor A.J.Taylor

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PLANNING AND DEVELOPMENT CONTROL COMMITTEE

30 SEPTEMBER 2014

CIVIC CENTRE PORT TALBOT

Members Present:

Chairman: Councillor R.G. Jones

Vice Chairman: Councillor J. Warman

Councillors: Mrs P.Bebell, A.Carter, Mrs.A.Chaves, D.W.Davies, Mrs.R.Davies, M.Ellis, J.S.Evans, S.K.Hunt, E.E.Jones, M.Jones, D.Keogh, E.V.Latham, Mrs.M.A.Lewis, A.R.Lockyer, J.Miller, J.D.Morgan, Mrs.S.Paddison, Mrs.K.Pearson, Mrs.S.M.Penry, D.M.Peters, M.Protheroe, L.M.Purcell, S.Rahaman, H.G.Rawlings, A.Taylor, A.L.Thomas, R.Thomas, D.Whitelock, I.D.Williams and Mrs.L.G.Williams

Invited

Members: Councillors Mrs.L.H. James and M.L. James

Cabinet

UDP/LDP Councillor A.J. Taylor

Member:

Officers in Attendance: Mrs.N.Pearce, S.Ball, I.Davies, D.Adlam, R.Borthwick, M.Fury, N.Taylor, S. Evans and Miss.G.Cirillo.

1. MEMBERS' DECLARATIONS

The following Members made declarations at the commencement of the meeting:-

Cllr.M.Ellis

Report of the Head of Planning –
Item No:1.1 - Planning Application
recommended for Approval
following Planning and
Development Control Committee
Members' Site Visit - Application
No: P/2014/217 – as he is the local
Member for Pelenna and therefore
expressed a predetermined interest.

Cllr.J.Warman

Report of the Head of Planning –
Item No: 1.1 Planning Application
Recommended for Approval
following Planning and
Development Control Committee
Members' SiteVisit- Application
No: P/2014/217 – as he is the Local
Member of a neighbouring Ward.

Cllr.A.Taylor

(i) Report of the Head of Planning -
Item No:1.1 - Planning Application
Recommended for Approval
following Planning and
Development Control Committee
Members' Site Visit- Application
No: P/2014/217 as he is an
Honorary Member of Afan Valley
Angling Club.

(ii) Report of the Head of Planning
– Item No: 2.3 - Planning
Applications recommended for
Approval - Application No:
P2014/0501 – as he is a member of
the Bae Baglan School Shadow
Board of Governors.

(iii) Report of the Head of Planning

	<p>– Item No: 4 – Delegated Applications determined between 9th August 2014 and 22nd September 2014 – Application No:P2014/0802- as he is an employee of TATA Steel.</p>
Cllr. E.V. Latham	<p>Report of the Head of Planning – Item No: 2.3 – Planning Applications Recommended for Approval -Application No: P2014/0501 – as he is a member of the Bae Baglan School Shadow Board of Governors.</p>
Cllr.Mrs. A. Chaves	<p>Report of the Head of Planning – Item No: 2.3 Planning Applications recommended for Approval - Application No: P2014/0501 as she is the Local Member for Sandfields West</p>
Cllr. J.S. Evans	<p>Report of the Head of Planning – Item No.2.3 Planning Applications recommended for Approval - Application No: P2014/0501 – as he is a member of the Bae Baglan School Shadow Board of Governors.</p>
Cllr.D. Keogh	<p>Report of the Head of Planning – Item No.2.3 - Planning Applications recommended for Approval - Application No: P2014/0501 – as he is member of the Bae Baglan School Shadow Board of Governors.</p>
Cllr.Mrs. L.G. Williams	<p>Report of the Head of Planning – Item No.2.4 – Planning Applications Recommended for Approval - Application No: P2014/0615 – as she is the mother of the applicant.</p>

2. MINUTES OF THE LAST MEETING

RESOLVED: that the Minutes of the Planning and Development Control Committee held on the 19th August 2014, be confirmed as a correct record.

Report of the Head of Planning

(Note: An amendment sheet - attached and agreed - was circulated at the commencement of the meeting, as detailed in Appendix A hereto)

PLANNING APPLICATION RECOMMENDED FOR APPROVAL FOLLOWING PLANNING AND DEVELOPMENT CONTROL COMMITTEE MEMBERS' SITE VISIT - 30TH SEPTEMBER 2014

3. APPLICATION NO: P2014/0217

(Councillors J. Warman and M. Ellis re-affirmed their interest in this item and withdrew to the public gallery during the discussion and voting thereon.)

Temporary permission for the drilling of an exploratory borehole to test the Westphalian and Namurian strata for coal bed methane and shale gases - Land within Foel Fynyddau Forest, near Pontrhydyfen, Cwmafan, Port Talbot.

RESOLVED: that the above application be refused, on the following grounds:-

By reason of the level of noise generated from the proposed drilling operations on a 24 hour basis, and, given the site-specific circumstances of this valley and the substantial perception of impact on the local community, it is considered that the impacts on the nearest noise sensitive residential receptors would be unacceptable, especially during night time operations. The proposal is therefore contrary to Minerals Planning Policy Wales and Policy M8 of the adopted Neath Port Talbot Unitary Development Plan.

PLANNING APPLICATION DEFERRED FOR A SITE VISIT

4. **APPLICATION NO: P2014/0246**

(Councillors J.Warman and M.Ellis returned to the meeting from the public gallery)

Gas-powered electricity generating station (20MW) and associated works (Amended location plan, block plan, floor plan and elevation plans received 03/09/14) – Ex Gas Works, Afan Way, Port Talbot, SA12 6HQ.

RESOLVED: that the above application be deferred for a site visit to assess the appropriateness of the proposed access on grounds of highway safety, and to allow the local Members concerns, in respect of the safety of the proposed development, to be assessed.

PLANNING APPLICATIONS APPROVED

5. **APPLICATION NO: P2014/0248**

Detached dwelling and garage (Outline) – Land adjacent to The Barracks, off Queens Street, Pontrhydyfen, Port Talbot.

RESOLVED: that the above application be approved subject to the Conditions contained in the circulated report.

6. **APPLICATION NO: P2014/0501**

(Councillors E.V. Latham, D.Keogh, A.Taylor and J.S.Evans re-affirmed their interests in this item and withdrew for the remainder of the meeting.)

Demolition of existing buildings and construction of a building to accommodate a new primary and a secondary school with associated outbuildings, means of access, sports facilities and playing fields, car parking, external lighting, boundary treatment and hard and soft landscaping, Western Avenue Playing Fields Adjacent to Seaway Parade, Sandfields, Port Talbot.

RESOLVED: that the above application be approved in accordance with the Officer's recommendation, as detailed in the circulated report, subject to the following additional Conditions/Informative as stated in the circulated amendment sheet:

- (37) Prior to commencement of work on site, an amended Flood Consequences Assessment (FCA) which models an extreme flood flow of 0.1% annual probability with an addition of an allowance for climate change in a scenario where there is a blockage at High Street bridge, shall be submitted to and agreed in writing by the Local Planning Authority. Any mitigation measures recommended by the agreed FCA shall be implemented prior to beneficial use of the school commencing.

Reason:

To safeguard future occupiers of the development site.

- (38) If any bats are discovered during construction works, the work should stop immediately and the applicant should contact Natural Resources Wales immediately, as a Licence may be required to continue, as bats are a European protected species and afforded protection under the Conservation of Habitats and Species Regulations 2010 and by the Wildlife and Countryside Act 1981 (as amended).

Reason:

In the interest of protected species.

Recommended Informative:

That any vegetation clearance should be done outside the nesting season which is generally recognised to be from March to August inclusive.

Reason:

To ensure nesting birds are not affected by the development.

7. **APPLICATION NO: P2014/0615**

(Councillor Mrs.L.Williams re-affirmed her interest in this item and withdrew for the remainder of the meeting)

Bay window to front elevation, conversion of garage to living accommodation, and extension of hardstanding to facilitate replacement off street car parking at 27A Ynys Y Mond Road, Alltwen, Pontardawe.

RESOLVED: that the above application be approved in accordance with the Officer recommendation and subject to the Conditions contained in the circulated report.

8. **APPLICATION NO: P2014/0795**

Outbuilding for overspill residential accommodation, 9 Prettyman Drive, Llandarcy, Neath, SA10 6HZ

RESOLVED: that the above application be approved in accordance with the Officer recommendation, and subject to the Conditions as contained in the circulated report.

Planning Application Refused

9. **APPLICATION NO: P2013/0762**

Demolition of existing dwelling and construction of two pairs of semi detached dwellings, land infill and associated works Dan-Y-Graig House, 36 Swansea Road, Pontardawe, Swansea, SA8 4AL.

RESOLVED: that the above application be refused, for the reasons contained in the circulated report, in accordance with the Officer recommendation.

(Note: with regard to the amendment sheet referred to above and attached as an Appendix, on which the Chair had allowed sufficient time for Members to read, in respect of an application item on the published agenda, the Chairman had permitted urgent circulation/consideration thereof at today's meeting, the particular reasons and the circumstances being not to further delay the planning process, unless the Committee itself wanted to defer any applications and to ensure that Members take all extra relevant information into account before coming to any decision at the meeting).

10. **DELEGATED APPLICATIONS DETERMINED BETWEEN 9TH AUGUST AND 22ND SEPTEMBER 2014**

Members received a list of planning applications which had been determined between 9th August and the 22nd September 2014, as contained within the circulated report.

RESOLVED: that the report be noted.

CHAIRMAN

PLANNING AND DEVELOPMENT CONTROL COMMITTEE

30 SEPTEMBER 2014

ENVIRONMENT

AMENDMENT SHEET

SECTION A – MATTERS FOR DECISION

- 1. Planning Applications**
Recommended for Approval Following Full Planning & Development Control Committee Members’ Site Visit

ITEM 1.1

APPLICATION NO: P/2014/217

DATE: 27/03/2014

PROPOSAL: Temporary permission for the drilling of an exploratory borehole to test the Westphalian and Namurian strata for coal bed methane and shale gases.

LOCATION: Land Within, Foel Fynyddau Forest, Near Pontrhydyfen, Cwmafan, Port Talbot

APPLICANT: UK Methane Limited

TYPE: Full Plans

WARD: Bryn & Cwmavon

The Group representing the residents of Pontrhydyfen submitted an email to Councillors and different sections of the Council expressing objections/concerns on the following (summarised) issues: -

- The Council should have insisted that UK Methane consulted with local community (not ward) prior to the application and reminded them of good practice laid down by their own organisation UK OOG. In consequence we feel that you have prejudiced our position in objecting to their Application.
- The Application which included cheaper energy job creation etc. are references that you find in all business applications. In this case however,

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there are environmental Health, social implications and it would seem to us that they are of less importance. Thus it could be construed that in favouring the application its legality is questionable as you should treat everything equally.

- You are obliged under National Planning Policy not to be biased for a business development as opposed to impact Social, Environment
- Note that the Chartered Institute of Environmental Health Officers (CIEH) on 21st July 2014 issued a report which urges local authorities to prevent fracking in their areas until they are sure there is no risk to Public Health. There are no assurances in the UK, so precautionary principles should apply. It also notes that the combination of weak regulations, diminishing resources with regulatory bodies, inexperience of industry and potential conflicts of interest within the Planning Regime is "disquieting".
- Refer to an article in The Lancet Journal, 'Health Implications Fracking' by Sir Michael Hill
- Refer to Cancer UK awaiting a report but whom express concern with the chemicals being used and the contaminants brought up to the surface.
- Methane extraction in your LDP is sparse and you do not provide for buffer zones. This is amazing.

Conclude that if Councillors agree to this exploratory borehole and UK Methane find economic amounts of gas or oil please ask your Planning Officers what would their recommendation be if UK Methane applied to frack the shale, or even put in more boreholes and horizontal pipework at the exploratory stage not appraisal or production stage.

Response

In response, it is considered that the report on the application has thoroughly assessed the implications of this test exploration borehole on the local area.

The lack of consultation from the applicant company with interested locals is noted but this is not a matter which the Council can insist upon for an application of this nature. The significant responses to the application indicate that the community is aware of and actively engaged in the application process.

The CIEH report referred to is entitled "Shale gas and fracking: examining the evidence". While the report is interesting in its conclusions in respect of fracking, and will no doubt be considered by Central Government, it is not about exploratory drilling *per se*, rather fracking itself. In this respect, the adoption of a precautionary approach as advocated does not apply to exploratory boreholes, and having regard to the acceptable impacts detailed in the main report, it does

not affect the conclusions that there are no justifiable ground son which to refuse planning permission.

Finally, any recommendation in respect of any future planning application for additional ‘fracking’ or additional exploratory pipework on this site or any others in the County Borough, can only be advised following detailed assessment of any such application. Any application for fracking, however, would require extensive supporting information including Environmental Impact assessment, and would be subject to rigorous examination.

An additional letter of objection has also been received which expresses concerns over the potential for contaminants to filter into the surrounding land, including her back garden and other properties in Afan Terrace, with potential failure of cement casings including through tectonic movement, and requesting that the Council err on the side of caution and turn down the application.

Response

It is considered that such matters are satisfactorily addressed in the main report, and it is emphasised that Natural Resources Wales has indicated that it is satisfied with the structure of pollution control measures, and has no objections to the proposal.

An additional objection letter has also been received which expresses some concerns with the committee report namely:

- (1) Concerns that the current application (and previous application) were not adequately publicised.
- (2) The size of the rig is described as “a maximum of 11m” (page five) and 12.8m (page 20) and the swept path analysis (page 25) was also calculated using a vehicle only 12 metres long, whilst the rig is described as being 12.8 metres long.
- (3) The report has an ambivalent tone when addressing concerns raised by objectors who refer to previous planning applications. The report stipulates (on many occasions), that each, “application has to be determined on its individual merits” and so the objections of the public, in this instance, are not relevant, and yet it refers councillors to the previous application P2011/0039 and the “Llandow Appeal”.
- (4) Application P2011/0039 should never have been accepted, as it is full of irregularities and Councillors should read it before deciding to use it as a base upon which to determine Application P2014/0217. The Council would

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not wish to be seen as acting against their Code of Conduct which stipulates that all applications have to be considered on their “own individual merits”.

- (5) There are concerns regarding page 26 in respect of highway safety and the access. Permission was granted for an unspecified rig under application P2011/0039, yet the current application needs two rigs. The previous application stated that access would be via the 'B4286 from Cwmafan to Pontrhydyfen' which implies vehicles will travel through Cwmafan and turn left onto the forestry track, whereas the 2014 application proposes the vehicles will turn right onto the forestry road, crossing the main carriageway near a bend. Similarly, the volume of traffic to and from the proposed 2014 development is at least three times greater than that of the 2011 application, and the timescale at least four weeks longer.
- (6) On page 29 it states that “other HGVs and large vehicles, such as buses and forestry lorries, frequently use the same roads”. This is not the case; buses frequently use the same roads, but HGVs do not travel along the stretches of the B4287 and the B4286 within Pontrhydyfen. There is a weight restriction of 7.5 tons along the B4287 through Pontrhydyfen. Whilst forestry lorries use this access road, it is on an infrequent basis and they have been recently observed trying, and failing, to use the route proposed by the applicant
- (7) Many of the issues determined by the report as “acceptable” relate only to the actual site and not to the impact on surrounding areas caused by traffic generation, noise and dust as stipulated by MPPW policy. Noise barriers, hooded lights and a water bowser for dust control may help minimise onsite problems, but do not address the fact that the 24 hour access requirement of vehicles travelling to the site (page 23) would in itself create a nuisance in terms of noise, dust and light pollution.
- (8) The report maintains that public rights of way will not be affected by this proposal, but this again refers only to the actual site (page 30). The area and road surrounding the site is used by walkers, cyclist and equestrians. Again, the report's author considers concerns of subsidence alongside the B4286 in terms of site activity and not in terms of the vibration caused by increased HGV use of this stretch of road.
- (9) The Noise Impact Assessment performed by Hunter Acoustics is invalidated by the fact that the application proposes drilling for at least 10 weeks not 8 weeks.
- (10) The clarification letter from the Welsh Government, dated July 2014 describes exploration as “the use of seismic surveys and exploratory drilling” (page 45). Have steps been undertaken to initiate a Seismic Survey? Have NRW issued a current permit for “flowback water”? Have the Planning Officers answered the query from NRW regarding the lack of clarity from the applicant in terms of 'gas testing'?

Response

- In respect of the concerns that the current application (and previous application) were not adequately publicised, it should be noted that this has been clearly addressed in the main report.
- In respect of the size of the rig being 11m and 12.8m long, it should be noted that 12.8m relates that to the total length of the vehicle, and 11m relates to the height of the rig element when erected. It should be noted that the swept path analysis was undertaken using a large mobile crane 12.3m long, as this was the nearest vehicle on the auto-tracking system. It is to be used for illustrative purposes only.
- In respect of the references to previous application P2011/0039 and the Llandow appeal, these are included to fully inform the Councillors. Each application is determined on its individual merits, but the previous application is a material consideration, while the Llandow appeal serves as a useful example of a similar proposals having been considered at appeal, albeit the application site has its own individual impacts which need to be assessed on their respective merits.
- In respect of the highway concerns and access points, it should be noted that the previous application utilised the same route as this application, and the Head of Engineering and Transport (Highways Section) have fully assessed the proposed route and access, including the proposed vehicles movements.
- In respect of the comments that HGVs and large vehicles do not use the same roads, it should be noted that HGVs and buses have been observed by officers using the proposed access route. It should be noted that the proposed access route does not go through Pontrhydyfen.
- With regards to the concerns that the report focuses on the actual site and not to the potential impact on the wider surrounding areas, it should be noted that the report has adequately assessed all the necessary and relevant issues.
- Turning to the concerns over the Noise Impact Assessment, it should be noted that the Environmental Health Section offer no objection to the proposal, subject to a condition in respect of a Noise Management Plan.
- With regards to the comments regarding a seismic survey, this has been addressed previously in the report.
- Turing to the comments whether NRW have issued a current permit for “flowback water” it should be noted that this would not be a material planning consideration as it is administered by separate legislation.
- Finally the comments relating to gas testing. The applicant’s have clarified that gas testing only will be undertaken for 36 weeks, and there will be no commercial gas production.

**2. Planning Applications
Recommended For Approval**

<u>ITEM 2.1</u>	
<u>APPLICATION NO:</u> P2014/0246	<u>DATE:</u> 03/09/2014
PROPOSAL: Gas-powered electricity generating station (20MW) and associated works (Amended location plan, block plan, floor plan and elevation plans received 03/09/14).	
LOCATION:	Ex Gas Works, Afan Way, Port Talbot, SA12 6HQ
APPLICANT:	Mrs Sarah Ward
TYPE:	Full Plans
WARD:	Sandfields East

Head of Engineering & Transport (Highways) has offered additional observations on the application expressing some concern regarding construction traffic accessing the site and the constraints on the route they have shown between the public highway and the construction site to accommodate large vehicles.

To address these, an additional condition is recommended as follows: -

- (16) No development shall take place, including any works of demolition, 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. the number and types of vehicles travelling to and from the site during construction and likely times of construction workers.
 - iv. route to be taken by delivery and Heavy Goods Vehicles to and from the site and any necessary improvements to accommodate these vehicles. A swept path analysis shall be submitted as part of the Construction Method Statement.
 - v. storage of plant and materials used in constructing the development
 - vi. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate

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- vii. wheel washing facilities
- viii. measures to control the emission of dust and dirt during construction
- ix. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason:

In the interest of highway safety

<u>ITEM 2.2</u>	
<u>APPLICATION NO: P2014/0248</u>	<u>DATE: 06/06/2014</u>
PROPOSAL:	Detached dwelling and garage (outline)
LOCATION:	Land Adj To The Barracks, Off Queens Street, Pontrhydyfen, Port Talbot
APPLICANT:	Ms A Howells
TYPE:	Outline
WARD:	Peenna

The agent has commented on the statement within the policy section of this report which states that “It is noted at this stage that the site is not proposed for inclusion in the settlement limits in the emerging LDP”. He claims that he has checked his records and has stated that the site has been included in the LDP submission.

In response, Members are advised that the report is correct, with the site not proposed for inclusion within the settlement limits in the emerging LDP submission. The site does, however, form part of a larger site put forward by the owner as an alternative site for inclusion within the Local Development Plan.

<u>ITEM 2.3</u>	
<u>APPLICATION NO:</u> P2014/0501	<u>DATE:</u> 04/06/2014
PROPOSAL: Demolition of existing buildings and construction of a building to accommodate a new primary and a secondary school with associated outbuildings, means of access, sports facilities and playing fields, car parking, external lighting, boundary treatment and hard and soft landscaping.	
LOCATION: Western Avenue Playing Fields, Adjacent To Seaway Parade, Sandfields, Port Talbot	
APPLICANT: Neath Port Talbot County Borough Council	
TYPE: Full Plans	
WARD: Sandfields West	

It has been noted that the report incorrectly identifies the application site as being in Baglan Ward, instead of Sandfields West.

The report incorrectly states in the Planning History that an application for the change of use from changing rooms and showers to boys club at Western Avenue Playing fields was approved in 2014. The application was actually approved on the 23/08/1983.

A response has been received from Natural Resources Wales (NRW) regarding the updated Flood Consequence Assessment. They have concluded following a technical review that the base hydraulic modelling is acceptable and replicates the NRW's own understanding of current flood risk on the site. The hydraulic model however, also attempted to consider extreme flood risk by replicating the scenario of an extreme blockage at High Street Bridge. Unfortunately, this restricted element of the model was carried out incorrectly and as a result the findings in relation to a potential extreme blockage cannot be relied upon. Notwithstanding this, NRW are satisfied that all other flood risk scenarios that have been modelled are acceptable and can be considered in the decision making process of the application.

Accordingly, Natural Resources Wales (NRW) does not object to this application and advised that it is a matter for the Local Authority to decide whether they wish to defer this application to obtain the correct information for the extreme case that has not been correctly modelled.

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In addition to flooding matters, NRW has also provided additional representations in respect of ecology, surface water drainage and land contamination. No objections are raised subject to conditions/ notes in respect of potential impacts on bats (none found but some may have escaped detection); breeding birds (vegetation clearance out of season); full surface water drainage scheme; and safeguards against land contamination.

Response:

Having regard to the advice received from NRW, it is considered that sufficient information has been provided to allow a robust assessment of the expected impacts of flooding at the site, albeit a further condition is recommended requiring the submission of an additional report, accurately modelling the extreme flood flow of 0.1% and identifying any necessary mitigation measures, to be agreed prior to construction works commencing on the development.

The other matters raised by the NRW are addressed in the report and conditions, with the exception of breeding birds and the discovery of any bats during construction works for which an additional condition is recommended

Additional Conditions:

(37) Prior to commencement of work on site, an amended Flood Consequences Assessment (FCA) which models an extreme flood flow of 0.1% annual probability with the addition of an allowance for climate change in a scenario where there is a blockage at High Street bridge, shall be submitted to and agreed in writing with the Local Planning Authority. Any mitigation measures recommended by the agreed FCA shall be implemented prior to beneficial use of the school commencing.

Reason:

To safeguard future occupiers of the development site.

(38) If any bats are discovered during construction works, the work should stop immediately and the applicant should contact Natural Resources Wales immediately, as a licence may be required to continue, as bats are a European protected species and afforded protection under the Conservation of Habitats and Species Regulations 2010 and by the Wildlife and Countryside Act 1981 (as amended).

Reason

In the interest of protected species.

The following informative is also recommended:

(1) Any vegetation clearance should be done outside the nesting season, which is generally recognised to be from March to August inclusive.

Reason:

To ensure nesting birds are not affected by the development.

3. Applications recommended for refusal.

3.1	APP NO: P2013/0762	TYPE: Full Plans	Page Nos: 135-149	Wards Affected: Pontardawe
PROPOSAL:	Demolition of existing dwelling and construction of two pairs of semi detached dwellings, land infill and associated works			
LOCATION:	Dan-Y-Graig House, 36 Swansea Road, Pontardawe, Swansea, SA8 4AL			

The agent acting on behalf of the applicant has submitted supplementary photomontages of the site and a video that they wish to be included within the committee presentation.

It is not considered that the images or video provide any significant additional information that would alter the recommendation , or reasons for refusal within the report. As such it is not considered necessary to include these. The plans submitted and the cross sections, and photos shown within the report provide sufficient clarity on the development proposals.

In relation to viability of the site and the provision of affordable housing, the agent acting on behalf of the applicant has provided the following additional comment;

“Again I would like to take this opportunity to bring to your attention the issue relating to the viability study, and confirm that my client does not wish to incur the expenditure at this stage should the overriding factor with regard to the decision lie with that of the landfill issue. This is because the viability study results will change relevant to the building level and house topology adopted for the site, it is a simple fact that the form must be determined to enable the complex substructure cost to be established. The initial viability outline submitted is relative to the scheme as submitted, and should further substantiation of the outline be required this can be obtained.”

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The report currently states that there is inadequate information provided within the viability statement. Whilst the applicant has been provided with options for an alternative site layout that would negate the requirement for the landfill works, to the extent shown on the proposed plans, the applicant wishes to continue with the current scheme. This is a full planning application, and therefore if approved would not allow alterations to the levels or house types. As such the viability assessment, in accordance with our adopted Supplementary Planning Guidance and procedures' should reflect this scheme fully.

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PLANNING (SITE VISITS) SUB COMMITTEE (PORT TALBOT CIVIC CENTRE)

Members Present:

9 October 2014

Chairman: Councillor R.G.Jones

Councillors: Mrs.D.Jones, D.W.Davies, Mrs.S.M.Penry,
I.D.Williams, Mrs.L.G.Williams, Mrs.R.Davies,
L.M.Purcell and S.K.Hunt

Local Members: Councillors Mrs.L.H.James and E.V.Latham

Officers In Attendance S.Ball, R.Borthwick, D.Adlam, K.Davies and
Miss.G.Cirillo

Report of the Head of Planning

(Note: An amendment sheet, attached and agreed, was circulated at the meeting, as detailed in Appendix A hereto)

1. **APPLICATION NO: P2014/0246**

**PROPOSED GAS-POWERED ELECTRICITY GENERATING
STATION (20MW) AND ASSOCIATED WORKS (AMENDED
LOCATION PLAN, BLOCK PLAN, FLOOR PLAN AND
ELEVATION PLANS RECEIVED 03/09/14 – EX-GAS WORKS,
AFAN WAY PORT TALBOT**

The Sub Committee considered the above mentioned application, a copy of the report along with an amendment sheet was circulated for Members' consideration.

Following the site visit, the Sub Committee discussed the application in detail taking into account the views of the local Members.

RECOMMENDED: that the application be refused for the reasons set out below:-

- (a) The development would be harmful to highway and pedestrian safety by

reason of the increased vehicular movements, notably by the larger vehicles to be used for the construction of the development in and out of an access in close proximity to traffic lights and a bus stop on a busy highway, and due to the increased conflict with users of the adjacent footbridge

(Note: with regard to the amendment sheet referred to above and attached as an Appendix, on which the Chair had allowed sufficient time for Members to read, in respect of application items on the published agenda, the Chairman had permitted urgent circulation/consideration thereof at today's meeting, the particular reasons and the circumstances being not to further delay the planning process, unless the Committee itself wanted to defer any applications and to ensure that Members take all extra relevant information into account before coming to any decision at the meeting)

CHAIRMAN

PLANNING (SITE VISITS) SUB COMMITTEE

9TH OCTOBER 2014

DIRECTORATE OF ENVIRONMENT

REPORT OF THE HEAD OF PLANNING – N.PEARCE

AMENDMENT SHEET

<u>ITEM 1</u>	
<u>APPLICATION NO:</u> P2014/0246	<u>DATE:</u> 09/10/14
PROPOSAL: Gas-powered electricity generating station (20MW) and associated works (Amended location plan, block plan, floor plan and elevation plans received 03/09/14).	
LOCATION:	Ex Gas Works, Afan Way, Port Talbot
APPLICANT:	Mrs Sarah Ward
TYPE:	Full Plans
WARD:	Sandfields East

Members should note that additional information has been submitted from the developer to state that the largest vehicle used during the construction process would be an articulated lorry of the following dimensions:

Length = 16.5m

Width = 2.55m

Height = 4.95m

Turning circle = 12.5m

The above information has been assessed by the Head of Engineering and Transport (Highways Section). They have advised that a tracking analysis has been undertaken, which has given an indication that an articulated lorry of 16.5 m in length can turn in left off Victoria Road with some alterations required at the access, and that the same size lorry would be able to turn in right from Victoria Road with no alterations required to

the junction. They also note that the construction method statement condition would adequately cover the construction period as all details of lorry movements and programme of works would need to be submitted as part of this condition covering the 4 months construction programme. It would also cover intended routes of vehicles and times of day to ensure disruption is kept to a minimum during this process.

In light of the above, it is therefore considered that the proposed development would be acceptable in terms of highway and pedestrian safety.

PLANNING AND DEVELOPMENT CONTROL COMMITTEE

21ST OCTOBER 2014

ENVIRONMENT SERVICES

REPORT OF THE HEAD OF PLANNING – N. PEARCE

INDEX OF REPORT ITEMS

PART 1 – Doc.Code: PLANDEV-211014 -REP-EN-NP

SECTION A – MATTERS FOR DECISION

1. Planning Applications

1.1	APP NO: P2014/0402	TYPE: Full Plans		Wards Affected: Gwaun-Cae-Gurwen
PROPOSAL:		Variation of condition 1 of Planning Permission P2007/1413 (Granted on Appeal on the 07.05.09) to allow for the extension of time for the commencement of development and variation of conditions 3 (reference to all works in Environmental Statement and to allow a maximum tip height of 100m and maximum blade diameter of 82m), 9 (borrow pits), 14 (highway improvement works to facilitate revised access route) and 15 (internal access tracks)		
LOCATION:		Mynydd Y Gwrhyd, North of Pontardawe, East of Cwmgors		

1.2	APP NO: P2014/0713	TYPE: Change of Use		Wards Affected: Glyncorrwg
PROPOSAL:		Change of Use from Sports Club (Sui Generis) to Public House (A3)		
LOCATION:		Croeserw Working Mens Club, Brynheulog Road, Croeserw, Cymmer, SA13 3RS		

2. Planning Applications Recommended For Refusal

2.1	APP NO: P2014/0496	TYPE: Full Plans		Wards Affected: Neath South
PROPOSAL:		Retention of self contained residential dwelling and associated car parking.		
LOCATION:		Crosswinds, 39 Cimla Common, Cimla, Neath SA11 3SU		

3. Proposed Confirmation of Tree Preservation Order

3.1	TPO NO: T328		Wards Affected: Bryncoch North
LOCATION:		Land at rear of 5 Channel View, Bryncoch, Neath	

SECTION B – MATTERS FOR INFORMATION

4. APPEALS RECEIVED		Wards Affected: Gwaun-Cae-Gurwen
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5. APPEALS DETERMINED		Wards Affected: Alltwen
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6. DELEGATED APPLICATIONS DETERMINED BETWEEN 23RD SEPTEMBER 2014 AND 13TH OCTOBER 2014		Wards Affected: All
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Human Rights Act

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. Reports and recommendations to the Sub-Committee have been prepared in the light of the Council's obligations under the Act and with regard to the need for decisions to be informed by the principles of fair balance and non-discrimination.

Background Papers

The relevant background papers for each of the planning applications listed in sections 1 to 4 above are contained in the specific planning applications files and documents listed in Background Information in each individual report. The contact officer for the above applications is Nicola Pearce.

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PLANNING AND DEVELOPMENT CONTROL COMMITTEE

REPORT OF THE HEAD OF PLANNING – N.PEARCE

21ST OCTOBER 2014

SECTION A – MATTERS FOR DECISION

1. Planning Applications Recommended for Approval

<u>ITEM 1. 1</u>	
<u>APPLICATION NO:</u> P2014/0402	<u>DATE:</u> 05/05/2014
PROPOSAL: Variation of condition 1 of Planning Permission P2007/1413 (Granted on Appeal on the 07.05.09) to allow for the extension of time for the commencement of development and variation of conditions 3 (reference to all works in Environmental Statement and to allow a maximum tip height of 100m and maximum blade diameter of 82m), 9 (borrow pits), 14 (highway improvement works to facilitate revised access route) and 15 (internal access tracks)	
LOCATION:	MYNYDD Y GWRHYD, North of Pontardawe, East of Cwmgors
APPLICANT:	DAN McCALLUM
TYPE:	Full Plans
WARD:	Gwaun-Cae-Gurwe

Background information

Members should note that this application is reported to the Planning and Development Control Committee at the request of Councillor Arwyn Woolcock on the grounds that the application includes significant changes to the approved scheme allowed at appeal.

Relevant Planning History

04/1381	Community wind farm consisting of 4 turbines (as opposed to 5 previously), sub station, met mast and access road and additional works including borrow	Refused	01/09/05
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	<p>pits. Planning permission refused September 2005.</p> <p>-Appeal dismissed September 2006</p> <p>-Judicial Review draft judgement October 2007, which held that the appeal be dismissed.</p>		
07/1059	Revised scheme screening opinion for 2 wind turbines 100m to tip (60m tower, 40m blade)	Disposed under article 29	12/12/08
07/1413	<p>Community wind farm consisting of 2 turbines, substation met mast and access tracks also additional temporary works including borrow pits</p> <p>- Appeal allowed May 2009</p>	Refused	17/08/08
10/0921	Erection of an anemometry mast up to 60.0m in height for a temporary period of 18 months	Approved	15/10/10
10/1225	Lawful development certificate for the proposed construction of two wind turbines with hub height of 59 metres and tip height of 100 metres	Lawful development certificate issued (proposed)	03/03/11
13/0893	Details to be agreed in association with condition 5 (scheme of archaeological investigation) and Condition 6 (archaeological sites) of planning permission ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009	Approved	23/01/14
13/0905	Details to be agreed in association with condition 21 (facilities for storage of oils, fuels or chemicals) of planning permission ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009	Approved	06/05/14
13/0914	Details to be agreed in association with condition 13 (siting of substation), of planning permission	Approved	23/01/14

	ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009		
13/0916	Details to be agreed in association with condition 8 (construction method statement) of planning permission ref: P2007/1413 APP/Y6930/A/08/2092727 granted on 07/05/2009	Approved	13/02/14
14/0078	Details to be agreed in association with condition 10 (Ecological management and mitigation monitoring plan) of planning permission Ref P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/09	Approved	06/05/14

Publicity and Responses (if applicable):

A total of 6 site notices were posted and the proposal was advertised in the press.

In response, to date 53 letters of objection have been received which includes 4 letters received from West Glamorgan Commoners Association (WGCA), Caegurwen and Panlle'rfedwen Commoners Association, The Gower Society and Rhiwfawr Action Group.

The issues raised can be summarised as follows:

- (1) Applicants have not consulted WGCA surely this is a breach of planning law as our graziers have legal grazing rights on the land and the proposal will impact upon this and their business. Only one member of WGCA supports the proposals who has an interest in the scheme
- (2) Impact on property prices
- (3) Creation of roads and tracks will lead to increased use of motorbikes on the common, dog worrying and fly tipping. Route goes through and disturbs Common Land, concerned as the movement of large lorries may cause damage. Proposal would create massive disturbance to the common. Land Transfer as compensation for Commoners has not been agreed.
- (4) Site falls within the area of consideration by Natural Resources Wales as an extension of the Gower Area of Outstanding Natural Beauty

- (5) Environmental conditions should not be removed as they protect the area.
- (6) Additional works required as part of the common land consent should be included in this application.
- (7) Questions over whether the scheme can be delivered by the applicants given the unresolved issues including planning conditions. Applicants do not have the capacity or the capability that they claim to have to take this forward.
- (8) Debatable whether any bank or lender would be prepared to risk funding such an enterprise
- (9) Changes to scheme are substantial, at odds with original application and should be considered by a new planning application and not an extension of time
- (10) Applicant makes threats that a larger developer will take over the proposal. The applicant's commitments to the community suddenly seem quite remote. If this happens, the local community would miss out on a large proportion of the benefits, which will instead be returned to a developer. If this happens shouldn't any assets be passed onto a company with similar objectives.
- (11) Community does not support proposal as applicant implies
- (12) Traffic route has been significantly revised. Plans for Mynydd y Betws wind farm have been known for a considerable time, why did the applicant not consider this 'southern' route long before the recent application.
- (13) Change to condition 14 suggests the applicants inability to align their plans with current conditions.
- (14) Locality of stone to be used has been changed causing more traffic issues
- (15) Environment study may not be valid and the area contains wildlife
- (16) Application should be refused under Section 73 (b) of the 1990 Act as there has been a material change in circumstances, changes in policy and failure to begin development

- (17) Welsh Ministers should call in this application for their own consideration
- (18) Community benefits should be managed by the Local Authority rather than AAT. Applicants have continually promised that they would supply things to the community all of which they have failed to deliver. Applicant confirmed possibility that the application could be 'sold on'.
- (19) Now borrow pits are removed no farm diversification / benefit to farms will result from the scheme as previously Perthigwynion farm quarry was to be used. Failure to check the quality, quantity and suitability of stone available at Perthigwynion Farm shows lack of competence.
- (20) Ground is unstable
- (21) Insufficient time for interested parties to comment on the application especially given holiday period, consultation period should be extended. Why have letters not been sent out to local community. Insufficient site notices posted.
- (22) The area is plagued with other turbines including on the Betws Mountain which are so intrusive from the Black Mountain (an area of outstanding beauty) that if turbines are erected on Mynydd Y Gwrhyd the whole area will be surrounded. No more an area of outstanding beauty.
- (23) The area that AAT propose to contaminate has exceptional uninterrupted panoramic views and is a truly marvellous place to walk and to watch wildlife. Visitors come to enjoy the common for these reasons.
- (24) Is the Blaenhonddan Farm Quarry the same quarry that Western Power have just submitted a planning application P2014/0722 for consultation for overhead lines
- (25) The application is a ploy to get more turbines granted in the future
- (26) The site is not within the designated government area for such development.
- (27) No details of how wheel wash is to operate and sources of water. Further wheelwash facility required where the access track joins the highway at Perthigwynion Farm and Blaenegel Farm.

(28) Applicant has offered money to each commoner if they would write to support the wind farm.

Gwaun Cae Gurwen Community Council: No response therefore no observations to make.

Cwmllynfell Community Council: No response therefore no observations to make.

Pontardawe Town Council: No objection

Brecon Beacons National Park: No objection

Natural Resources Wales: No objection

R.S.P.B: No response

Ministry of Defence (Wind): No objection subject to conditions

Glamorgan Gwent Archaeological Trust: No objection

Swansea Airport: No response

BBC (Research Department): No response

OFCOM (Windfarm Site Clearances – operation Licensing): No objection

Civil Aviation Authority (Director of Airspace Policy): No response

National Grid Plant Protection: No response

The Coal Authority: No objection

Joint Radio Company: No objection

Head of Engineering and Transport (Highways Section): No objection subject to conditions

Head of Engineering and Transport (Drainage Section): No objection subject to conditions

Pollution Control (Noise): No objection - previous conditions fit for purpose

Contaminated Land: No objection, subject to condition

Footpaths: No objection subject to condition

Arboricultural Officer: No response

Biodiversity Unit: No objection

Description of Site and its Surroundings

The application site comprises an area of approximately 10 hectares located on Mynydd y Gwrhyd to the east of Cwmgors and Gwaun Cae Gurwen, to the south of Tairgwaith and to the west of Rhiwfawr. It lies to the east of the A474 which is the principal route from Neath to Ammanford.

Access to the site will be gained via an existing access off the A474 (Pontardawe to Cwmgors) at a point opposite the entrance road to Pwllfawatkin Landfill Site.

The site occupies a prominent, elevated and isolated position on Mynydd y Gwrhyd just off the ridgeline on Mynydd Uchaf at about 350m Above Ordnance Datum (AOD) and from which there are panoramic and extensive views across the surrounding countryside and settlements and which extend to the Brecon Beacons National Park to the north, the southern boundary of which is some 2.8km from the nearest proposed wind turbine.

There are a number of farms in the locality together with the remains of previous mineral workings. Planted woodland has been undertaken in the locality, primarily with evergreen species. The site lies adjacent to the 33kv and 11kv local electricity distribution networks.

The existing closest residential properties in Cwmgors and Gwaun Cae Gurwen are some 1.8km from the nearest turbine, with those in Tairgwaith being some 1.3km away and the closest properties in Rhiwfawr some 1.1 km away. There are also individual properties located adjacent to the access road and farms located close to the site.

The site area comprises part private land and part Common Land and is not allocated for any purpose in the Unitary Development Plan. It lies outside Strategic Area E identified in Technical Advice Note 8.

Brief description of proposal

Members will be aware that planning permission (P2007/1413) has previously

been granted at appeal (May 2009) for two no. wind turbines at this location, including substation met mast and access tracks and additional temporary works including borrow pits.

This submission relates to a Section 73 application to vary and remove conditions attached to this planning permission. This type of application allows the Local Authority the power to remove or amend planning conditions. The approval of such an application would result in a new planning permission for the development being granted.

The application is supported by a Design and Access Statement, together with copies of the previous Environmental Statement with updated addendum, Transport Assessment, Coal Mining Report, and an updated Ecology Assessment.

Details of the conditions to be varied / removed are summarised as follows:

Condition 1:

The development hereby permitted shall begin not later than five years from the date of this decision.

The application seeks to vary the condition to extend the time for commencement of development until 7th May 2019.

Condition 3:

This permission relates solely to the erection of two, 3 bladed wind turbines and associated works as described in the application plan and accompanying ES, with a maximum height to the blade tip of 100 metres from the original ground level.

The application seeks to vary the condition to remove reference for works to be in accordance with the original Environmental Statement (ES), given that this document refers to the use of borrow pits (It is now proposed to use an off site quarry – see below) (i.e. tighten reference to the ES so there is no reference to sections referring to borrow pits or original traffic calculations in the original ES and ES Addendum). In addition it seeks consent for minor alterations to the approved wind turbine design with the wind turbine maximum height remaining the same, but the hub height would reduce by 1m and blade radius increase from 40m to 41m. In addition, the construction traffic route was previously approved to access the site from the north (Ammanford direction) but it is now proposed from the south (Pontardawe direction).

Condition 9:

No development shall commence until a scheme has been submitted to and approved by the local planning authority indicating the location of the borrow pits, their size, the prevailing ground conditions including the level of the water table, the nature of the material to be excavated and the use of the material, the nature and origin of any backfilling material, any pollution control measures necessary to protect controlled waters from suspended solids and the potential impacts on the hydro-geological regime as a result of the excavation and back-filling.

The applicant seeks to remove this condition given that details of borrow pits are no longer required as they propose to use an off site quarry rather than on site borrow pits as a source of stone.

Condition 14

No construction works shall commence at the site of the turbines, until the highway improvement works as detailed on Figure 14 at 1:500 dated August 2004 have been implemented, unless otherwise agreed in writing by the Local Planning Authority.

The approved delivery route for turbine components was via the M4 and the A474 through the town of Ammanford (the northern route). This application instead proposes that construction vehicles will access the site from the south (southern route) from Pontardawe at a point opposite the entrance road to Pwllfawatkin Landfill Site. The change in direction of construction traffic necessitates a change in design of the junction with the A474 when compared to the previously agreed scheme. It is proposed to widen the bellmouth at the junction and to widen the adopted highway for a length of some 160m by removing existing vegetation and trees.

Condition 15

The permanent running widths of the internal access tracks shall be no greater than 5 metres wide (10 metres on bends) unless agreed in writing by the local planning authority. All new tracks shall be surfaced with stone from the approved borrow pit(s) or excavations for the turbine bases, unless otherwise

agreed in writing by the local planning authority.

The applicants seek to vary the above condition to remove the second sentence, which currently states that new tracks will be surfaced with stone from the borrow pits (which are now not proposed). They also seek to vary the condition to allow wider sections of track to provide passing places along the access track and a wheel wash facility. The passing places/ wheel washing are identified as areas between 6m and 9m.

ASSESSMENT

Members should note that the principle of locating 2 turbines at this location has previously been accepted by the granting of the original appeal in May 2009. Accordingly, having regard to the approval of planning permission ref. P2007/1413 for two wind turbines and associated infrastructure, the main issues for consideration in the determination of the application relate to whether there has been any material change in site or policy circumstances since that approval, together with an assessment of the impact of the proposed amendments to the consent (through changes in the wording of the conditions) having regard to matters including safety, noise; socio-economic and cultural issues.

This report therefore concentrates on those areas where there are significant changes in the likely impacts arising from the proposals to vary / remove conditions whilst noting those relevant material considerations where the judgement is that there will be no change arising from the amendments proposed.

In summary therefore the issue is whether the proposed changes raise sufficient new material issues such as to make the current proposals unacceptable.

The key issues to be assessed within this report are set out below:

- **Landscape and visual effects**
- **Ecology and archaeology**
- **Ground Stability & Hydrology**
- **Traffic and Transport**
- **Shadow Flicker**

- **Electromagnetic Interference, Aviation, Public Access, Recreation, Safety and Shadow Flicker Assessment**
- **Noise and disturbance**

Environmental Impact Assessment

Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, as the original full planning application for this site was EIA development, this application for the variation of conditions is also regarded as an EIA application.

The local planning authority considers that the Environmental Statement (ES) accompanying the original full planning permission adequately addresses the environmental effects of the proposals. However, given the alterations proposed to the approved scheme, the local authority requested that the original ES was updated via an addendum to take account of the revisions to the proposed scheme together with any potential material change in circumstances that have occurred in the intervening years.

As such, the environmental information submitted with this application ie the Environmental Statement submitted with the original application and the updated information in the form of the addendum, is considered adequate to assess the environmental effects of the development. As a result, this information will be taken into account and considered in the assessment of this application, the officer recommendation and therefore the determination.

Policy Context:

Development Plan Policies and Planning Guidance

The following policies were considered relevant to this proposal at the time of the original decision and remain in force.

The Unitary Development Plan

Policy ENV1 – Development in the Countryside

Policy ENV3 – Impacts On The Landscape

Policy ENV17 – General Considerations

Policy IE4 – Renewable Energy

Policy M6 – Borrow Pits

Draft Interim Planning Guidance: Wind Turbine Development

The draft Interim Planning Guidance (IPG) was prepared in accordance with the Ministerial Interim Planning Policy Statement (MIPPS) 01/2005 and Technical Advice Note (TAN) 8 (2005). It states that the Council will have regard to the IPG when making planning decisions with immediate effect.

National Planning Policy

Planning Policy Wales

Technical Advice Note 8 (TAN 8)

The appeal inspector noted the following:

‘TAN 8 provides a National framework within which wind energy developments are considered. Its thrust is to concentrate large scale onshore wind energy developments, defined as projects producing 25MW or more, into identified Strategic Search Areas (SSAs). One such SSA (Pontawdawe SSA[E]) lies about 500 metres to the south of the appeal site, but a note on the map within the TAN states that boundaries may be slightly refined and that there was scope to increase the area to the north-west. Annex D of the TAN provides guidance to local planning authorities on dealing with SSAs, including that minor adjustments could be made to the ‘broad brush’ boundaries when translating these into the locally generated planning documents such as the UDP or the IPG.

‘In this regard, I note that the IPG provides a refined SSA boundary, although it makes little difference in terms of the application site and the broad area covered. The application site lies beyond the areas identified for large scale developments where the TAN makes clear at paragraph 2.13 that such areas should remain free of large wind energy developments. However, it is clear from paragraph 2.2 of Annex D of the TAN that areas within 5 kilometres of the SSA are recognised as having an association with the identified areas in terms of possible sites. Thus the site can be regarded as being close to the SSA. Nevertheless as made clear in paragraph 2.13, outside the SSA, a balance has to be struck between the desirability of renewable energy and landscape protection, although that balance should not result in a severe restriction on the development of wind power capacity.’

‘The proposal however is made as a community based scheme with an output of 4MW. The submitted ES provides adequate evidence that the proposal would fall within this definition. Paragraph 12.8.11 of the MIPPS and paragraph 2.12 of TAN 8 notes that *smaller (generally less than 5MW) domestic or community-based wind turbine developments may be suitable within or without SSAs subject to material planning considerations*. In this regard, I note that the MIPPS does not define ‘smaller’ in physical terms such as the height/radius of the turbines and blades, although the Inspector considering the proposal for 4 turbines did make comment in this regard.’

‘Outside the SSA, smaller scale schemes could be appropriate. I consider that having regard to paragraph 2.13 of TAN 8 in full, there is a clear inference that whereas wind energy developments larger than 5MW outside the SSA and urban/industrial brownfield sites would probably lead to the refusal of planning permission, smaller schemes should be generally supported.’

The Appeal Inspectors concludes these matters by stating:

‘Having an output of no more than 4 MW, the proposal would fall within the parameters of small community based schemes set out in TAN 8 of up to 5MW and also within the more restricted maximum set out in the Council’s IPG. Whilst recognising that the height of the turbines and blades would be substantial and that comment in this regard was made by the last inspector, I find insufficient grounds for departing from the policy standpoint that the proposal must now be regarded as being ‘small scale’.

As such it is clear the Planning Inspector considered the location to be appropriate for a two turbine community scale scheme and the key policies in TAN8 remain the same as they were in 2009.

Furthermore, the key development plan policies referred to above are still relevant to the scheme and generally remain the same in 2014 as they were in 2009.

The below is an overview of the additional / new guidance that has come into effect since the original approval in 2009:

Environment Minister, John Griffiths, in his letter to Chief Planning Officers (July 2011) emphasised the Welsh Government’s ongoing commitment to limiting the development of large scale wind farms to seven specially selected areas, increased the maximum capacities for the Strategic Search Areas (SSAs) and called on decision makers to respect maximum installation capacities for onshore wind.

The Minister for Housing and Regeneration, Carl Sergeant, in his letter to Chief Planning Officers in December 2013, emphasised that the Welsh Government is seeking to promote and support community driven renewable energy projects where benefits from the projects are returned to the host community, and recognised that the planning system plays a crucial role and is fundamental to the deployment of community energy projects in Wales.

His letter advised that *‘Planning decisions should be based on an assessment of the impacts of any proposed development irrespective of who the applicant is. However, by recognising the particular needs of community groups and organisations, and offering the opportunity for early engagement in the planning process, I hope that we will be able to realise our ambitions to see community owned renewable energy projects flourishing across Wales’*.

“A Low Carbon Revolution” – (The Welsh Government Energy Policy Statement (2010))

In this policy statement, the Welsh Government sets out its ambitions for low carbon energy in Wales. It recognises the challenge of climate change and the aim is to renewably generate up to twice as much electricity annually by 2025 compared to output in 2010.

UK National Renewable Energy Action Plan (2010)

The National Renewable Energy Action Plan provides details on a set of measures that would enable the UK to meet its 2020 target for renewable energy. It also seeks to secure UK energy supplies through 2020 and beyond and provides a sound framework for business to develop in the new industries, providing jobs and cutting harmful greenhouse gases.

The action plan recognises the role of the planning system to deliver the infrastructure required to reduce carbon emission. It also equally recognises the need for the planning system in

“safeguarding our landscape and natural heritage and allowing communities and individuals the opportunity to shape where they live and work.”

UK Renewable Energy Road Map (July 2011)

This document sets out the shared approach to unlocking the UK renewable energy potential and ensures that 15% of the UK energy demand is met from renewable sources by 2020 in the most cost effective way.

The role of the planning system is also recognised within the document.

Paragraph 3.20 states

“The planning system plays a central role in delivering the infrastructure we need to reduce our carbon emissions, to ensure continued security of energy supply and help our economy to grow. It has a vital role in safeguarding our landscape and natural heritage and allowing individual communities the opportunity to shape their environment.”

Planning Policy Wales Edition 7, July 2014) sets out the strategic framework for the effective operation of the planning system in Wales.

Biodiversity and landscape considerations must be taken into account in determining individual applications contributing to the implementation of specific projects. The effect of a development proposal on the wildlife or landscape of any area can be a material consideration. In such instances and in the interests of achieving sustainable development, it is important to balance conservation objectives with the wider economic needs of local businesses and communities. Where development does occur it is important to ensure that all reasonable steps are taken to safeguard or enhance the environmental quality of land.

Conclusion in respect of the principle of the proposed development

As emphasised above, the erection of two wind turbines in this location has previously been deemed to be acceptable by an independent Planning Inspector. Since that date, there has been no material change in local policy, while national policy has only reinforced the Government’s commitment both to the SSAs and especially to small-scale community-based wind projects.

Accordingly, there remains a general presumption in favour of developing wind farms subject to there being no resultant adverse impacts, and there are no reasonable or sustainable grounds on which to object to this development in respect of the principle of development.

ASSESSMENT

Landscape and visual effects

The table below sets out a comparison between the details of the previously approved turbines and those proposed under this application, from which it will be noted that the change to the turbine design is minimal.

	Overall height	Hub Height	Blade radius
Approved	100m	60m	40m

scheme 2009			
Current proposal	100m	59m	41m

The Appeal Inspector in 2009 dealt with and summarised the question of the visual and landscape impact of the proposed turbines as follows:

- *‘the impact upon part of the area’s landscape character would be significant but not unacceptably harmful’ and ‘the proposal would not result in significant change to the landscape’s overall appearance and its appreciation.’*
- *‘upper parts of the turbines may be seen and may result in some significant changes to the views, I consider that the area’s key visual characteristics would not be significantly changed.’*

Bringing these two issues together the Appeal Inspector noted the following:

- *‘it is clear that the proposed turbines would have an effect upon the landscape character and visual appearance of the area. Those impacts would be largely contained by the existing topography within a 10km radius that encloses the appeal site and separates it from the wider landscape.’*

The Appeal Inspector also referred to and assessed the potential cumulative impact stating

- *‘I have also had regard to the possible cumulative impact of similar developments within and adjoining the Council’s area and note in particular those developments within the defined SSA’s. However, taking into account the level of exposure of and to those developments as illustrated in the ES and noted during my site inspection, together with the reduced scale of the current proposal, I conclude that the proposal would not result in significant change to the landscape’s overall appearance and its appreciation.’*

The original planning application was supported by landscape and visual assessment. The approach taken to the landscape assessment was based upon the LANDMAP methodology and data. This methodology accorded with Best Industry Practice. The studies concluded that the turbines would have a very limited zone of visual influence.

The requested variation to condition 3 will result in the proposed turbines

potentially having a greater swept area of 1m by virtue of the increased blade radius. However, this is to a degree offset by the reduction in hub height which results in the overall tip height remaining the same as that previously approved.

As stated, in terms of the overall height, the maximum tip height will remain the same at 100m, but clearly there is an increase in blade length and as a result whilst in motion, particularly from closer views, one may be more aware of the turning of the turbines when in operation. On balance however and given the limited increase in blade radius, it is considered that there would be no materially greater impact in landscape and visual terms to the extent that it would justify refusing consent.

Notwithstanding the above, it is necessary to consider cumulative impact, and notably whether there are any changes since the appeal decision in terms of other approvals which would materially affect the overall conclusions in terms of landscape impact. In this regard, the following planning applications for developments in close proximity to the site have been granted / become operational, and are analysed below:

Mynydd y Betws Wind Farm - Although the scheme at Mynydd y Betws was consented after the Mynydd y Gwrhyd scheme, the two schemes were determined at a very similar time and cumulative impacts were considered at the appeals for both proposals. Neither scheme was refused on grounds of cumulative impact.

Summary: Cumulative impact assessed at time of original application Mynydd y Gwrhyd.

Mynydd y Gwair –When the original application for the Mynydd y Gwrhyd scheme was considered, this application was under consideration and although not being part of the baseline, the cumulative impacts were considered at the Mynydd y Gwrhyd appeal. The Mynydd y Gwair application for 19 turbines was refused and dismissed at appeal. A revised scheme consisting of 16 turbines was approved by the City of Swansea County Borough Council in February 2013. The revised scheme has fewer turbines than the proposal considered for cumulative impacts at the Mynydd y Gwrhyd appeal.

Summary: Cumulative impact assessed at time of original Mynydd y Gwrhyd application when it was considered there was no unacceptable impact. 2013 scheme for fewer turbines approved, and therefore no unacceptable impact

Ffynnon Oer Wind Farm - wind farm located 16.2 km southeast of Mynydd y Gwrhyd. The Ffynnon Oer Wind Farm wind farm was operational at the time of the planning application for the Mynydd y Gwrhyd scheme. A cumulative ZTV was presented in the ES Addendum submitted in 2007 (ES Addendum Figure 18, Dulas 2007) and concluded that there would be no significant cumulative effects arising from the Ffynnon Oer Wind Farm when considered alongside the Mynydd y Gwrhyd scheme.

Summary: Cumulative impact assessed at time of original Mynydd y Gwrhyd application

Mynydd Marchywel – Five wind turbines of up to 126.5 m are proposed at Mynydd Marchywel, approximately 6.7km to the south east of Mynydd y Gwrhyd. The application was submitted in October 2012 and therefore was not considered in the cumulative impact assessment for Mynydd y Gwrhyd. The application was refused in February 2014 and therefore is not part of the baseline situation under which this Section 73 application is considered. However, given that the applicant has submitted an appeal, the project is considered here.

The Mynydd y Gwrhyd scheme had an extant consent when the application was submitted. Therefore, cumulative impacts of the Mynydd Marchywel wind farm alongside the Mynydd y Gwrhyd scheme were considered throughout the planning process for the Mynydd Marchywel scheme

The LVIA for Mynydd Marchywel concludes that:

‘The assessment of cumulative effects indicates that the proposed wind farm would introduce negligible new areas of visibility, where wind energy development is currently not seen, into the study area. Whilst the proposed wind farm would be seen in combination with other cumulative development across most of the LCT and LCA in the study area, the addition of the proposed wind farm would not add significantly to existing and proposed cumulative development and would have a relatively limited effect which would not be significant on any LCT or LCA’ (page 129).

As stated the Mynydd Marchywel planning application was refused, however, the reasons did not relate to cumulative impacts.

Summary: Not considered at time of original Cumulative Mynydd y Gwrhyd application. However, Mynydd Marchywel application considered cumulative impact and concluded there would be no unacceptable impact.

As such, analysis of the above schemes demonstrates that the Mynydd y Gwair

and Mynydd Marchywel wind farms that have been approved since the original Mynydd y Gwrhyd appeal decision. However, both of these schemes included cumulative impact assessments examining their impact alongside the impact of this proposed development at Mynydd y Gwhryd.

Having regard to the above, it is considered that all proposals considered since 2009 have assessed cumulative impacts alongside the Mynydd y Gwrhyd scheme, and no proposals have been refused due to unacceptable cumulative impacts. In any respect, it is concluded that the changes proposed as part of this application are minor and there are no reasonable grounds to object to the development on landscape grounds, including in respect of cumulative impact.

The other changes proposed under this application, namely the decision not to use on site borrow pits, to change the route of construction traffic and make amendments to internal access roads, would have negligible impacts upon the landscape over and above those identified in the previous application. Indeed, the Appeal Inspector does not relate to these individual aspect elements in his assessment on visual impact and almost solely refers to the impact of the turbines only.

Ecology

Within the original planning application it was assessed that there was no significant habitat change and there was no objection from CCW or the Council's Biodiversity Unit to the development. Similarly the appeal inspector did not raise any objection or issues in respect of ecology but recommended the following condition:

No development shall commence until an ecological management, mitigation and monitoring plan has been submitted to and approved in writing by the local planning authority: the plan shall be implemented as approved.

Several ecology surveys have been carried out since 2009 as part of work to discharge the above condition and to secure Section 194 Common Land consent including surveys in June 2011. They include a Discharge of Ecology Planning Condition report produced by Barry Stewart & Associates in September 2013 and an Ecological Mitigation Method Statement produced by Amber Environmental Consultancy in February 2014. The above have been submitted to NPTCBC and have been reviewed by the Biodiversity Unit. The Biodiversity Unit has confirmed that they were satisfied with the information submitted and the condition was discharged in June 2014 under planning reference P2014/0078.

There is also no evidence that there will be any increased impact upon local wildlife arising from the proposals as opposed to that within the originally approved scheme. There are therefore, no outstanding matters relating to Ecology.

Archaeology

The archaeological impacts of the scheme were previously assessed within the ES concluding that no unacceptable impacts would result. The Planning Inspector accepted this approach and recommended the following conditions:

'No development shall commence until a scheme to ensure the implementation of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority.'

'No development shall commence until all identified archaeological sites within the application site area have been fenced in accordance with details to be submitted and approved by the local planning authority: throughout the development, no works shall be undertaken within the fenced area without written consent of the local planning authority.'

The above conditions were discharged on 23rd January 2014 under Planning reference P2013/0893. The relationship between the proposed wind turbines and archeological assets has not changed. As such, the alterations subject of this application would not result in any significant additional impact. Glamorgan Gwent Archeological Trust also raised no concerns to the amendments which are proposed within this application and have confirmed that they have no objection to the proposed scheme. As such, conditions are recommended which refer to implementation of the aforementioned agreed schemes.

Ground Stability & Hydrology

With regard to ground conditions that exist and its suitability to accommodate the foundations for the proposed turbines, it is noted that investigations have previously been undertaken by Consultants commissioned during the submission of the original application for four wind turbines. The Appeal Inspector does not refer to this issue in any detail in respect of the appeal allowed in 2009 in respect of the 2 turbine scheme. However, no evidence was presented at this time to suggest that the erection of the turbines would cause ground stability problems.

However, the Coal authority have reviewed the proposals put forward under

the current application and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records show that the site contains a number of mine entries (shafts / adits); with further mine entries within 20 metres of the application boundary. The site is also within an area of recorded past shallow workings and is likely to have been subject to historic unrecorded shallow workings. The Coal Authority records also indicate that the site has been subject to past surface mining operations.

The Coal Authority state that the applicant has obtained appropriate and up-to-date coal mining information for the proposed development site; including Coal Authority Mine Abandonment Plans, BGS geological mapping and information from a recent site investigation, permission of which was obtained from The Coal Authority records. This information has been used to inform the Coal Mining Risk Assessment Report (April 2014, prepared by The Natural Power Consultants Limited).

Based on this review of existing mining information, and on the basis that all of the mine entries are remote from where the turbines are proposed, Section 6 of the report confirms that it is highly unlikely that there are any workings or disturbed ground in the vicinity of the locations that would have an adverse effect on the proposed development. Consequently, the report concludes that the risk is assessed as extremely low. Accordingly, no specific remedial measures or further investigation are considered necessary.

The Coal Authority advise that the results of the site investigations, an analysis of which is provided in the submitted Coal Mining Risk Assessment Report, are broadly sufficient for the purposes of the planning system and meet the requirements of Planning Policy Wales (PPW) in demonstrating that the application site is safe and stable for the proposed development. The Coal Authority therefore has raised no objection to the proposed development. However, it is stated that further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent Building Regulations application.

It is therefore considered that material circumstances therefore remain broadly unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of ground stability.

A Hydrology report was also commissioned by the applicants during the submission of the original application, which acknowledged that some

dwelling in the area are served by natural water supplies. The conclusions reached in the report were that the development should not have an impact on natural water supplies and licensed abstractions but recommends that the situation be monitored.

Natural Resources Wales have provided further confirmation in respect of the current application that they have no objection to the development in principle. Given that the amended application still consists of only two turbines it is not considered that the proposed development would have any additional impact over and above that previously considered.

Traffic and Transport

The access road on the site (defined as the area within the red line boundary) was consented in 2009 and the route from the A474 has not changed since this date. A detailed design for the access road has however been produced that includes minor amendments to the track widths at certain locations.

Traffic route

Access arrangements to the site have changed since those assessed in the original ES. The original ES described the access for Abnormal Indivisible Loads (AILs) to the site as along the A474 from the north. The original route described in the ES was along the A483 towards Ammanford from the west and then went onto the High Street through the centre of Ammanford. At the time of the original ES preparation, the High Street was the A474. In 2006, a bypass was constructed in Ammanford which significantly changed the road layout. The A474 now follows the bypass. The route as assessed in the original ES no longer exists due to these changes.

In terms of the original route proposed via Ammanford, the High Street has been substantially modified to discourage through traffic from using it. Traffic calming measures have been installed along the full length of the road. In addition to necessary street furniture and signage modifications.

The route now proposed is from the south and has been adopted following changes to the highway network from the north described above. In addition, this seeks to take advantage of the enabling works now in place following the successful delivery of the Mynydd y Betws project.

The proposed route for AILs comprising the Wind Energy Converters or Wind Turbines (WEC) components is therefore now expected to begin with importation to Swansea dock from where they will be transported to the site via A483 Fabian Way to the M4 at Junction 42. The route continues north west

along the M4 to junction 45 where it leaves to join the A4067 north to Pontardawe, and then along the A474 north to a minor junction opposite the Pwllfawatkin tip at OS reference SN 703 086.

The route from the south has been assessed by the local authority as an acceptable route for the Mynydd y Betws project (which was implemented without unacceptable impact) and as the proposed development is smaller, in both size and number of turbines, it is considered that there will be no significant impact from using this route.

The only part of the Mynydd y Gwrhyd route that is not coincident with the Mynydd y Betws route is about 800m of lane/access track leading from the Pwllfawatkin cross roads to the Gwrhyd Common. Nevertheless there are no highway objections to this part of the route.

Traffic Movements

This application also requests the removal of condition 9 that requires details of on site borrow pits to be submitted to the local planning authority. This is on the grounds that the original application proposed the inclusion and use of borrow pits for the extraction of stone to construct the access track. However, although the borrow pits were discussed in the original ES and planning conditions, the borrow pits were not within the red line boundary for the application. This Section 73 application therefore applies to vary conditions to enable AAT to use stone from a local quarry as opposed to the originally proposed (but not previously approved) borrow pits.

The applicant originally considered three options for obtaining stone for construction, including use of materials excavated as part of development (e.g. turbine foundations), use of borrow pits near the turbines and purchasing stone from off site. The two borrow pits considered were located at Perthigwynion Farm and to the north of Bryn Melyn Farm.

However, it has since been concluded that the quality of stone from the two aforementioned farms is inadequate and the quantity available is insufficient from Perthigwynion farm. Furthermore, the site to the north of Bryn Melyn is also unavailable as it is located on common land and was withdrawn from the Section 194 application by the applicant in order to reduce the impact of the scheme on the Gwrhyd Common, an area of open public access.

The applicant therefore now proposes to source stone from Blaenhonddan Farm quarry (also known as Gilfach Quarry). This quarry is located about 5.5 miles from the site to the south of Pontardawe. The route to site will be along a short length of minor road onto the A474 to the east of Bryncoch then north

along the A474 to the Pwllfawatkin crossroad. It is of note that this quarry recently supplied 60,000 tonnes of stone to the nearby Mynydd y Betws wind farm development.

It should be noted that the original ES estimated that with the borrow pits, in excess of 85% of the required stone for the project could be won on site. It is not clear what proportion of this 85% would be sourced from excavations associated with the turbine and ancillary development as the assessment also considers this as an option.

As such, it is clear that by sourcing stone from off site, there will be a resultant increase in construction vehicular movements over and above that which was previously anticipated. However, a Traffic Management Plan was not produced as part of the application consented in 2009, and details of the exact number of vehicular movements was not provided. As such, a condition was placed on the consent by the Appeal Inspector to enable preparation of additional information on traffic movements and mitigation of any impacts.

The proposed scheme estimates that 1,727 deliveries will be required over a six month construction period, creating an average of 12 deliveries (24 movements) per day. However, the number of vehicles per day will generally be less than 12, but may rise to about 50 HGV vehicles (100 movements) per day during periods of intense activity, typically during concrete foundation pours (which will normally take one day for each of the two bases). These figures exclude the site personnel and visitors travelling to and from the site which will be about 8-10 cars or light vans per day.

The bulk of the 1,727 figure referred to above relates to the importation of stone (1,397 loads - 2794 vehicle movements). The applicant has confirmed that the construction will last for approximately 6 to 7 months and that for the first one and a half months of the construction, HGVs will be delivering the stone on a 10 hour working day. The deliveries would however be restricted to Monday to Friday and Saturday mornings, so effectively 5 ½ days per week.

As such the Local Planning Authority has assessed the number of movements related to stone on the basis of a seven week period (38.5 days). This assessment indicates that there will be an average of 36.3 HGV loads (72.6 HGV movements) per day which equates to 3.63 (7.26 movements) per hour.

If the stone deliveries were more intense (over a 6 week (33 day) period) this would increase the vehicles to an average of 42.3 HGV loads (84.6 HGV movements) per day, which equates to 4.23 per hour (8.46 movements)

As stated above, the calculated proposed vehicle movements relating to stone

would represent an increase over and above those that were originally envisaged under the previous approval. Nevertheless, the Head of Engineering and Transport has assessed the proposed development and considered the above calculations and advised that there is sufficient capacity within the highway network serving this site to accommodate these movements without impacting upon highway safety. As such there is no highways objection to the proposed development.

Accordingly, provided an appropriate Traffic Management Scheme is conditioned and implemented, along with other appropriate conditions, it is considered that the impacts of the proposed development during the construction phase of the wind farm would not result in any unacceptable impact upon highways and pedestrian safety.

Shadow Flicker

Guidance on shadow flicker at the time of the original approval stated that the effects only occur at distances of up to, and no more than, 10 rotor diameters from the turbine.

Both the original ES and the Appeal Inspector stated that given the distance from any dwellings, shadow flicker is not an issue for the proposed scheme. Following the appeal decision, Parsons Brinckerhoff in 2011 reviewed the evidence base for Shadow Flicker on behalf of the Department for Energy and Climate Change. The study concluded that the rotor diameter approach is widely used by different organisations in different parts of the UK and still deemed to be an appropriate assessment area. This approach is still used to guide shadow flicker assessments in 2014 and therefore remains appropriate to this application.

The closest property is Bryn Melyn, which is located 750m south of the nearest turbine. However, as previously assessed, properties to the south of a turbine cannot be affected by shadow flicker. Impacts only occur within 130 degrees either side of north from a turbine. As such, despite the increased rotor diameter distance it is still the case that no residential properties fall within the affected zone.

It is therefore considered that material circumstances remain broadly unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of shadow flicker impact.

Electromagnetic Interference, Aviation, Public Access, Recreation, Safety and Shadow Flicker Assessment

The original ES (2004) included a section assessing the impacts of the five turbine Mynydd y Gwrhyd scheme on microwave and electromagnetic signals, television reception and aviation. The ES Addendum (2007) did not update the 2004 assessment.

Microwave and other electromagnetic signals are transmitted throughout the country by a wide range of operators, including both statutory agencies and commercial companies. As part of the original ES (2004) all bodies controlling communication links were contacted including Home Office, Orange, Crown Castle UK Ltd, BBC, ITC, NTL, Radio Communications Agency, Cable and Wireless and Radio Safety Branch. With the exception of NTL, none of these organisations voiced any concerns.

The ES reported that NTL stated that no Super High Frequency links would be affected, but that there could be an impact on an NTL operated UHF Re-Broadcast link between Carmel and Ystalyfera.

As such, while there were no significant impacts identified in the original ES, a condition was placed on the consent requiring a scheme to be submitted and approved in writing to alleviate any interference with electro-magnetic signals (condition 27). Should this application be approved this condition can be re-imposed.

In respect of aviation, the Appeal Inspector did not include any planning conditions on the consent relating to aviation. However, the MOD have responded by stating that the principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

As such, the MOD, in the interests of air safety request that the turbines should be fitted with aviation safety lighting.

Defence Infrastructure Organisation Safeguarding also wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests. If planning permission is granted the MOD state that they would like to be advised of the following;

- the date construction starts and ends;
- the maximum height of construction equipment;
- the latitude and longitude of every turbine.

It is stated that this information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area.

Subject to conditions securing the above, given the nature of the proposed alterations, it is considered that there will be no additional impact over and above that previously identified.

In terms of public access, recreation and safety, the limited alteration to this proposal which primarily relates an increased blade diameter, will ensure that there would be no further impact over and above that assessed under the previous permission.

Noise and disturbance

Noise issues relating to the potential noise impact of this Wind Farm scheme have been previously assessed in the Environmental Statement, and the Addendum to the Environmental Statement. The Environmental Health Officer and the Appeal Inspector also raised no objection to the previous proposal regarding noise implications.

The previous noise assessment followed the guidance contained within the report by the DTI Working Group on Noise from Wind Turbines and which is detailed in ETSU-R-97. ETSU-R-97. This remains the key guidance for wind turbine noise assessments in 2014.

Planning conditions were however placed on the previous consent to ensure that noise levels will be acceptable and outlining the remedial action that can be taken if complaints are received. The Environmental Health Officer has not raised any objection to this revised scheme.

Furthermore the extraction of stone from an existing quarry at some distance from the site will result in less noise and disturbance during the construction phase of the development, when compared to the potential use of borrow pits adjacent to the site. Therefore, use of stone from a commercial quarry could be considered to have a minor positive impact by reducing noise levels associated with new quarrying activities and also reducing the impact upon the existing landscape. Furthermore, the applicant has confirmed that during negotiations on the Common land consent, it was explicitly requested that the borrow pit on the Common was removed from the scheme.

As such, it is considered that subject to the inclusion of conditions in respect of noise the proposed scheme would not lead to any additional unacceptable impact over and above that which was previously identified.

Comments on the Grounds of Objection raised by the Public

In response to the objections raised mainly by local residents, it is considered that the concerns relating to planning policy, visual amenity, ground stability, site stability, ecology, traffic implications, cumulative impact and planning policy have been addressed in the report.

In respect of the other matters:

In response to the above issues concerning the consultation process and the fact that WGCA were not consulted by the applicant. Site notices were posted at the site and other locations in close proximity to the site and the application was advertised in the press. The consultation was considered as sufficient and was carried out in accordance with statutory requirements associated with publicity for a Planning Application as set out within the Town and Country Planning (General Development Management Procedure) (Wales) Order 2012.

It is a private matter between WGCA and the applicant as to whether consultations should have been sent to this organisation rather than a legislative requirement.

In respect of the issues concerning impact on property prices. There is no justifiable evidence that the windfarm would devalue property and notwithstanding this, the impact a planning application may have on property value is not a material planning consideration.

In respect of the issues raised concerning the impact upon the Common and the land transfer issue. Issues such as fly tipping would be dealt with under separate legislation. However, there is no evidence presented to suggest that the proposals would have an unacceptable impact upon the Common and the local authority is of the view that any impact would in any case not be to an unacceptable level. Matters of grazing rights over the common are the issue of the land transfer and are not material to the consideration of this application as they were dealt with under a separate application under the Common Land Act which has already been granted.

In response to the issue of the proposed alteration works required as part of the common land consent. Some of these works will require planning permission. However the applicant is not required to submit these details as part of this current planning application and can apply for planning permission at a later date for these works.

While it is accepted that the applicant has not progressed matters quickly in line with the previous approvals at this site, questions relating to whether the applicant is able to deliver this scheme are not material to this decision.

Regarding the issues raised highlighting the extent of the changes to the application, the legality of the submission and that a new full application should be submitted, an applicant can apply for consent under section 73 of the Act, to remove or vary a planning condition any time prior to the expiry of the host planning permission. Officers were of the view that a variation of condition application, provided it was made as a formal planning application, was the appropriate procedure given that it allows for all interested parties to be consulted and for appropriate publicity to be given to the revised proposals. Furthermore, while objectors state that the application should be refused under section 73 (b) of the act, it is considered that this is the applicants first attempt at renewing this permission and as such to refuse the application on failure to begin / implement the development would be unreasonable.

In response to the allegations that the applicant has threatened that larger developers could take over the scheme and issues of community benefit, the contribution towards a community fund would be the responsibility of the applicant or any successor. As such it is considered that community benefit for the purposes of the planning application would be maintained even if other developers took over the scheme. It should be noted however that Community Benefit is not a material planning consideration.

Turning to the statement that the community does not support the proposal as the applicant implies. It is understood that there are varied reasons why the members of the local community do not support the proposed development. However it is the local planning authority's role to consider all material planning considerations in making their decision, as part of this the local community have provided their views on the proposal which are assessed in this report.

Responding to the issues raised concerning the change in route for construction traffic, the applicant had previously chosen an alternative route that the Appeal Inspector allowed. However, for the reasons already set out in this report, this route is no longer as viable as previously assessed.

In respect to the issues raised concerning condition 14 of the Appeal Inspectors decision that requests highway improvements to the junction, the applicant has requested amendments to this arrangement given the altered route of construction traffic and the fact that the previous junction arrangement cannot

adequately accommodate vehicles entering the application site from the south as currently proposed.

In respect of the issues raised concerning the potential for there to be more vehicular movements. The Head of Engineering and Transport has assessed the proposed development and has no objection to the proposals.

An objector suggests that this application should be 'called in' by Welsh Ministers. However, this application is not a type that falls under The Town and Country Planning (Notification) (Wales) Direction 2012 and as such does not need to be referred to Welsh Government. Nevertheless any interested party is able to request that an application be called in by the Welsh Government prior to its determination (They must make that request direct to the Planning Division of the Welsh Government). However the Welsh Government will only agree to 'call in the application' if it is of more than local importance. It is not considered that this application is of more than local importance. Nor have we been advised by the Welsh Government that they intend to 'call it in'.

In respect of the issue relating to the loss of potential for agricultural diversification / benefit as a result of the alteration to use on site borrow pits, the Appeal Inspector did not cite this as justification for allowing the appeal and in any case it is considered that the loss of the on site borrow pits would not lead to any unacceptable impact that would merit refusal of this application.

In response to the enquiry as to whether Blaenhonddan Farm Quarry is the same quarry that Western Power have just submitted a planning application P2014/0722 for consultation for overhead lines. The site subject to Planning application P2014/0722 is Gwrhyd Special Stone Quarry not Blaenhonddan Farm Quarry.

In respect of the issue raised concerning the potential for there to be more wind turbines at this location in the future, any future application will be considered on its own merits and should this application be approved, it will not set a precedent for future wind turbines at this site.

In respect of the allegations relating to money being offered, scare tactics and lack of bank funding, there is no evidence to back up these allegations nevertheless they are not material planning considerations.

In respect of the amendments requested to condition 3, this will not result in any Environmental conditions being removed.

The comments are noted that indicate that the site falls within the area of consideration by Natural Resources Wales as an extension of the Gower Area of Outstanding Natural Beauty. However, Natural Resources Wales have raised no concerns in this respect and have no objection to the proposed development.

In respect of the issues raised concerning wheel wash facilities, the final detail for these arrangements will be agreed as part of a condition requiring a Traffic Management scheme. Notwithstanding this, it is considered that an option could be to utilise a wheel washing bowser at the site so no mains or other sources of water would be required.

Community Benefit

Developers, in consultation with local planning authorities, should take an active role in engaging with the local community on renewable energy proposals.

Experience has shown that there are opportunities to achieve community benefits through major wind farm development. Local Planning Authorities, where reasonably practical, should facilitate and encourage such proposals. However, such contributions should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.

TAN 8 Renewable Energy (2005) considers “Community Involvement and Benefits” and recognises the opportunities that large developments provide in making contributions that benefit the community, and experience has shown that there are opportunities to achieve community benefits through major renewable energy developments including solar”.

These include where developers offer benefits not directly related to the planning process. However such contributions should not impact on the decision making process, and as stated above should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.

Having regard to the above, and to the Authority’s recent success in ensuring other such large-scale renewable energy proposals directly benefit the community from hosting such development, the applicant has offered to provide a community benefit contribution of £6,000 per MW. This reflects the sum offered under the previous approval which was for the same amount.

The applicant has indicated that a further contribution of £4,000 per MW has been agreed as part of the legal agreement for the Common Land Consent.

As stated above, community benefit is not put forward as mitigation and must not be taken into consideration in the decision of the planning application.

Conclusion

As with the original proposal a range of issues have been raised during the assessment of this application. National policy continues to support renewable energy projects such as this and as such the key issue for Members is whether the revised proposals raise new material issues that have such an adverse impact that the overarching policy support for renewable energy should be set aside in this particular case.

Key issues relate to whether it would be appropriate to extend the date for commencement of development, landscape and visual impacts together with the revised access route and potential for additional vehicular movements. It is not considered that there has been a material change in circumstances since the previous grant of planning permission and the proposal continues to broadly accord with national policy. It is therefore considered that it would be unreasonable to refuse to allow the extension to the time period proposed for commencement of development. In terms of visual impact it is concluded that there will be no greater impact than the earlier proposals. Furthermore, the suitability of the local road network has been assessed and it has been confirmed by the Highway Authority that they have no objections to the revisions, subject to conditions.

All environmental information submitted within the ES and the Supplementary Environmental information along with the comments of statutory consultees on the information supplied, and the comments, observations and representations provided by members of the public have been taken into consideration in this recommendation.

As such it is considered that the submitted scheme demonstrates that there are no unacceptable detrimental effects over and above those previously identified. The development therefore accords with Planning Policy Wales, TAN 8, Policy GC1, ENV1, ENV3, Policy ENV17, Policy IE4 and Policy M6

Recommendation

APPROVAL subject to a section 106 agreement to secure a community benefit payment of £6,000 per MW per year for the life time of the project and securing of a bond of £65,000 to cover the scenario that the applicant can not fulfil its obligation for the decommissioning of the scheme.

CONDITIONS

(1) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

(2) This permission relates solely to the erection of two, 3 bladed wind turbines and associated works as described in the application plan and accompanying updated ES, with a maximum height to the blade tip of 100 metres from the original ground level and shall be restricted to the maximum generation of 4 MW of electricity only.

Reason

In the interest of clarity

(3) The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from any wind turbine to the electricity grid network (First Export Date). Written confirmation of the First Export date shall be notified in writing by the developer to the Local Planning Authority within one month of the First Export Date.

Reason

In the interests of visual amenity

(4) Not later than 24 years after the First Export Date a decommissioning and site restoration scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such a scheme will include:

-the removal of all surface elements of the development and one metre of the turbine bases below ground level;

-confirmation of the management and timing of works;

-a traffic management plan to address highway issues during the period of the decommissioning works;

-any other works of restoration and aftercare

The scheme shall be implemented as approved.

Reason

In the interests of visual amenity

(5) Notwithstanding the requirements of condition 4, if any wind turbine fails to produce electricity to the grid for a continuous period of 12 months, that turbine and its associated ancillary surface equipment shall be removed from the site in accordance with a scheme that shall have been submitted to and agreed in writing with the Local Planning Authority within 28 days of the end of such 12 month period. The scheme shall include provisions for the decommissioning of the turbine and associated equipment and the restoration and aftercare of the relevant land (herein referred to as the restoration scheme). The submission shall also include a timetable for the aforementioned and the works shall be completed in accordance with the approved restoration scheme.

Reason

In the interests of visual amenity

(6) The blades of the wind turbines shall rotate in the same direction.

Reason

In the interests of visual amenity

(7) No development shall take place until full details of the following have been submitted to, and approved in writing by the Local Planning Authority:

-The external finish and colour of the proposed turbines;

-The materials to be used for any external unit transformer housing;

The development shall be carried out in accordance with the approved details.

Reason

In the interests of visual amenity

(8) All electricity and control cables between the turbines and the switch room shall be laid underground and alongside tracks which are to be constructed as part of the development.

Reason

In the interests of visual amenity

(9) No construction work shall be undertaken outside the hours of 0730 - 1800 hours on weekdays (Monday - Friday) and 0730 - 1200 hours on Saturdays and at no time on bank holidays and Sundays.

Reason

In the interests of residential amenity

(10) The temporary construction compounds and other temporary construction works as set out in the submitted application details shall be removed no later than three months from the First Export Date and the ground restored in accordance with the proposed restoration of the site within 6 months of such removal.

Reason

In the interests of residential amenity

(11) Variations of the position of any turbine(s) and their associated infrastructure shall be permitted by up to 30 metres in any direction within the application site. Such variations shall be notified to the Local Planning Authority prior to their erection on site via the submission of a plan showing the approved siting and proposed micro siting, together with a reasoned justification for the proposed micro siting. The turbine(s) shall be completed in accordance with the submitted plan. A plan showing the approved siting of the turbines shall be submitted within one month of their construction on site.

Reason

In the interests of visual amenity

(12) Prior to the commencement of development written confirmation shall be submitted to the Local Planning Authority confirming that the Ministry of Defence has been given written notice of the proposed date of commencement and completion of the development, the maximum height of construction equipment, the latitude and longitude of every turbine and the maximum extension of height of any construction equipment, turbines or structures.

Reason

In the interests of Aviation safety to ensure that there is no obstruction to air traffic movements and interference to Air Traffic Control and Air Defence radar installations.

(13) The implementation of the archaeological work and protection of archaeological sites within the application site area shall be carried out in accordance with Archaeology Wales Limited, Written Scheme of Investigation (WSI) (dated September 2013) and QuadConsult Limited Construction Method Statement (dated September 2013), as agreed under planning permission P2013/0893 approved on 23.01.14.

Reason

In the interests of archaeology

(14) The implementation of the ecological mitigation work shall be carried out in accordance with Amber Environmental Consultancy, Ecological Mitigation Method Statement (dated February 2014), as agreed under planning permission P2014/0078 approved on 06.05.14.

Reason

In the interests of ecology

(15) No trees, other than those within a 200 metre radius of the proposed turbines and those required for the new track and the widening of the existing track (as detailed in the Amber Environmental Consultancy Ecological Mitigation Method Statement (February 2014)) shall be felled within the application area.

Reason

In the interests of ecology

(16) Notwithstanding the submitted information, no development shall take place until a Traffic Management scheme (TMS) has been submitted to and approved in writing by the Local Planning Authority. The TMS shall set out the timings of works and include details of any alterations/amendments to the existing A474 on route through Pontardawe and up to the site location. This shall include temporary speed reduction measures (if applicable), give way markings, times of operation, removal of existing street furniture, roundabouts, kerb alignments etc. that allows safe delivery of the wind turbines. The development shall be carried out in accordance with the approved Traffic Management Scheme including the reinstatement / restoration of

temporary works necessary to allow for the deliveries associated with this development.

Reason

In the interest of highways safety

(17) There shall be no Abnormal Indivisible Load deliveries to the site before the implementation of the highway junction improvement works (with the A474) as detailed in QuadConsult Limited Construction Method Statement (dated September 2013) paragraph 3.3 and Drawing 13040 100 Rev 5 (submitted 07/10/14).

Reason

In the interests of highway safety.

(18) No part of the development shall display any name, logo, sign or advertisement or means of illumination (save for that required for aviation safety purposes).

Reason

In the interests of visual amenity.

(19) The development hereby permitted shall be carried out in accordance with QuadConsult Limited Construction Method Statement (dated September 2013), as agreed under planning permission P2013/0916 approved on 13.02.14.

Reason

In the interests of highway safety.

(20) The tonal noise emitted from any of the turbines shall not exceed the levels

recommended in guidance in the BERR ETSU-R-97 at any residential property. In particular, the level of noise emissions from the wind farm, measured as described

below, at any dwelling lawfully existing at the date of this permission shall not exceed:

(i) between 0700 and 2300 hours on any day the greater of 40dB LA90 (10 mins) or 5dB(A) above the Quiet Waking Hours Background Noise Level at that property;

or

(ii) between 2300 hours on any day and 0700 hours on the following day the greater of 43dB LA90 (10 mins) or 5dB(A) above the Night Hours Background Noise Level at that property.

The following definitions shall apply:

(i) “ETSU” means “The Assessment and Rating of Noise from Wind Farms” published by the Energy Technology Support Unit for the DTI in 1996.

(ii) “Background Noise Level” means the derived prevailing background noise as reported in the Environmental Statement 2007 at Table 5.1.

(iii) “Tonal Noise” has the meaning given on page 95 of ETSU.

(iv) “Quiet Waking Hours” “Night Hours” have the meaning given on page 95 of ETSU.

Reason

In the interest of the environment and residential amenity

(21) At the request of the Local Planning Authority following a complaint to it, the developer shall measure the level of noise emissions, including tonal noise, resulting from the operation of the wind farm in accordance with the methods recommended in Section 2.0 of ETSU at pages 102-109. Wind speed shall be measured on the wind farm site and referenced to a height of 10 metres. Where it is necessary to convert between measured wind speeds and the wind speed at 10 metres height this conversion shall be undertaken using a methodology approved by the Local Planning Authority.

Reason

In the interest of the environment and residential amenity

(22) If the noise and / or tonal noise measured for the site following a complaint as referred to under conditions 21 exceeds the limits specified within condition 21, a noise management plan shall be submitted to and agreed in writing with the Local Planning Authority within one month of the exceedence being identified and the proposed mitigation measures shall be fully implemented in accordance with the timescales as set out within the agreed Noise Management Plan.

Reason

In the interest of the environment and residential amenity

(23) No development shall take place until an aviation safety lighting scheme for the wind turbines has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to erection of either wind turbine.

Reason

In the interests of Aviation safety to ensure that there is no obstruction to air traffic movements and interference to Air Traffic Control and Air Defence radar installations.

(24) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease immediately and shall be reported in writing to the Local Planning Authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006). This document shall be submitted to and agreed in writing with the Local Planning Authority. Prior to occupation of the development, a verification report which demonstrates the effectiveness of the agreed remediation, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.

(25) Notwithstanding the submitted information, Unless otherwise agreed in writing with the local planning authority, 2.4m x 160m visibility splays in each direction along the A474 at the entrance of the proposed access track, clear of any obstruction over 600mm shall be constructed prior to commencement of any work on site. These splays shall be retained and maintained as such thereafter.

Reason

In the interest of highway and pedestrian safety

(26) Unless otherwise agreed in writing, prior to the commencement of any work on the Wind farm development, a condition survey of the existing highway network along the proposed access route for deliveries, which shall include the condition of the carriageway and footway shall be undertaken. The survey shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of work on site. Within 1 month of the completion of the associated wind farm a further condition survey of the same highway network, shall be undertaken, which shall include the condition of the carriageway and footway and shall be submitted to the Local Planning Authority. Any damage to the highway identified as a result of the increased volume of construction vehicles shall be repaired within 6 months of the completion of the associated wind farm in accordance with a scheme to be first submitted and agreed in writing with the Local Planning Authority.

Reason:

In the interest of highway safety

(27) Notwithstanding the submitted information, no development shall commence until such time as a Drainage Strategy to provide evidence of how the surface water along the proposed new access tracks is to be disposed of, together with an associated programme of works, has been submitted to and approved in writing by the local planning authority. The proposed drainage works shall be completed in accordance with the approved scheme.

Reason

In the interest of highway and pedestrian safety and to ensure the provision of a satisfactory means of surface water disposal for the development.

(28) Notwithstanding the submitted information, unless otherwise agreed in writing by The Local Planning Authority, prior to commencement of development on site, a maintenance and management strategy for all existing watercourses, culverts (new or existing) and associated structures sited within and adjoining the application site and effected by the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented and maintained during the lifetime of the consent.

Reason

To ensure drainage system is satisfactorily maintained and to ensure ongoing optimal performance of system

(29) The running widths of the internal access tracks shall be no greater than 5 metres wide, 10 metres on bends and 9 metres at passing places / wheel washing areas.

Reason

In the interest of visual amenity

(30) The location of the substation shall be as agreed under planning permission P2013/0914 as approved on 23.01.14.

Reason

In the interests of ecology

(31) Facilities for the storage of oils, fuels or chemicals shall be as agreed under planning permission P2013/0905 as approved on 06.05.14.

Reason

In the interests of ecology

(32) Prior to the commencement of the construction of any turbine, a scheme which shall include a programme of mitigation shall be submitted and approved in writing by the local planning authority to alleviate any interference with electro-magnetic signals: the scheme shall detail any necessary mitigation measures should interference attributable to the development occur: Any necessary mitigation measures shall be implemented in accordance with the agreed details and the associated programme of works.

Reason

In the interests of residential amenity

(33) The construction compound shall be constructed as set out in the approved construction method statement (September 2013) and drawing numbers 007 and 008.

Reason

In the interests of ecology, visual amenity and the environment

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<u>ITEM 1.2</u>	
<u>APPLICATION NO:</u> P2014/0713	<u>DATE:</u> 29/08/2014
PROPOSAL:	Change of Use from Sports Club (Sui Generis) to Public House (A3)
LOCATION:	Croeserw Working Mens Club, Brynheulog Road, Croeserw Cymmer SA13 3RS
APPLICANT:	MRS NORMA WORKMAN
TYPE:	Change of Use
WARD:	Glyncorrwg

BACKGROUND INFORMATION

The application is reported to Committee since the agent submitting the application is Councillor Scott Jones.

Planning History:

P2004/1096 – Replacement Workingman’s Club: Approved – 21/09/2004
 P2007/0980 – Temporary consent for 24 month siting of a burger van: Refused – 01/10/2007
 P2008/0572 – Temporary consent for 24 month siting of burger trailer: Approved – 08/07/2008.

Publicity and Responses if applicable:

Statutory Consultees

Glyncorrwg Ward: No reply received to date, therefore no observations to make

Head of Engineering and Transport (Highways): No objection

Environmental Health: No objection

Adjacent properties were notified and a Site Notice displayed on the 10/09/2014. To date, no representations have been received.

Description of Site and its Surroundings:

The Croeserw Sports and Social Club is situated off Brynheulog Road, Croeserw, Port Talbot. There is a car park to the west of the club building which is accessed off Brynheulog Road and there are residential properties to the east. To the west and south of the car park is a park and playing fields, and to the north is a play area and playing pitch.

Brief description of proposal:

The application seeks full planning permission for the change of use of the Sports and Social Club to a Public House (Use Class A3). The applicant does not propose any external alterations; it is just concerned with the use of the building. The applicant has during the course of the process chosen to alter their red line boundary. In doing so, the area of the site is now rectangular and follows land pattern of the rear gardens of those properties on Brynheulog Road.

Material Considerations:

The material planning considerations with regard to this submission relate to the principle of the change of use at this location and its effect on residential amenity and highway and pedestrian safety.

Policy Context:

Neath Port Talbot Unitary Development Plan

Policy GC1 New Buildings/structures and changes of use

Policy EC3 Creation or expansions of businesses within settlement limits

Policy T1 Location, layout and accessibility of new proposals

The site is located within the defined settlement limits for the area, as set within the Neath Port Talbot Unitary Development Plan. Policy EC3 allows for the creation or expansion of businesses within Settlement Limits, subject to criteria. These include issues of amenity, and impacts upon highway safety. Therefore the principle of the change of use is considered acceptable at his location, subject to an assessment of whether it meets the specified criteria, which will be assessed in the following amenity sections.

Visual Amenity:

The application does not propose any external alterations to the existing Sports Club building and, consequently, the proposed change of use will have no adverse impact on visual amenity. Should the applicant choose to extend the premises and/or make any external alterations these proposals would be subject to a fresh application.

Residential Amenity:

With regard to residential amenity, the building remains unaltered as per the previous Planning Permission which was granted in 2004 (P2004/1096). However following the applicants decision to reduce the site area, the application red line boundary for the purposes of this submission is no longer the same as that submitted and approved in 2004. That being said the premises will not be moved any closer to existing residential properties which may have had an impact on their amenity.

The approved use incorporates land to the rear of the building which, while currently not in use, is not subject to any restrictive conditions. This land however it must be stressed is no longer part of the application site and will not be considered in the determination of this application.

Accordingly, activities and facilities such as outside seating and smoking areas could take place without the need for planning permission as they are already lawful under the existing permission on this parcel of land. Having regard to this, and the similarity between the existing and proposed uses, the potential noise generation resulting from this application is considered not to amount to an increase over and above what is currently experienced or permitted on site. In this regard it is noted that the Environmental Health database identifies that there have been no records of noise nuisance complaints, while the Environmental Health Section are in agreement that there do not appear to be any significant changes or activities proposed to the building which would warrant their adverse comments. Accordingly, the change of use of the building, and the use of surrounding land associated with the Class A3 use, would have no unacceptable impact on the amenity of nearby properties such that it would be unreasonable to place additional restrictions on its use.

The applicant does not provide any detail of operating hours, although in order to protect the amenity of surrounding residential properties, having regard to the open Class A3 use proposed, a condition is recommended restricting the hours of operation to between 07:00 and 23:30 hours.

The existing car park will be retained to serve the new use, and it is considered that there would be no intensification in use which would result in any greater potential conflict with visitors parking on-street near residential properties. It is therefore considered there would be no unacceptable adverse effect on residential amenity.

Highway Safety (e.g. Parking and Access):

The Sport Club is served by a car park which provides up to 27 spaces. The application proposes to retain the use of the car park in conjunction with the new use. The Head of Engineering and Transport (Highways) is satisfied as long as the application site retains the existing off-street parking provision solely for use with the proposal there will be no adverse impact on highway and pedestrian safety. A condition is recommended to that effect.

Ecology (including trees & protected species):

None

Others (including objections):

None

Conclusion:

The proposed change of use will not have an adverse impact on visual and residential amenity, nor will it negatively impact upon highway and pedestrian safety. The proposal therefore complies with Policies GC1, EC3 and T1 of the Neath Port Talbot Unitary Development Plan.

RECOMMENDATION: Approval with Conditions

CONDITIONS

(1)The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

(2)The operating hours of the Public House hereby approved shall be between 07:00 and 23:30 only.

Reason

In the interest of residential amenity.

(3) The existing car park to the west of the building shall be retained and available at all times for the parking of vehicles associated with the use hereby permitted.

Reason:

To ensure adequate parking is available to serve the use in the interests of highway safety.

REASON FOR GRANTING PLANNING PERMISSION

The decision to grant planning permission has been taken in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise.

The proposed change of use will not have an adverse impact on visual and residential amenity, nor will it negatively impact upon highway and pedestrian safety. The proposal therefore complies with Policies GC1, EC3 and T1 of the Neath Port Talbot Unitary Development Plan.

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**Planning Applications
Recommended For Refusal**

<u>ITEM 2.1</u>	
<u>APPLICATION NO:</u> P2014/0496	<u>DATE:</u> 11/08/2014
PROPOSAL:	Retention of self contained residential dwelling and associated car parking.
LOCATION:	Crosswinds, 39 Cimla Common, Cimla, Neath SA11 3SU
APPLICANT:	MRS LINDA REES
TYPE:	Full Plans
WARD:	Neath South

BACKGROUND INFORMATION

The application has been called to Committee by Cllr Peter Rees as he wishes the Committee to consider the potential impacts of the decision upon the development, as it has already been carried out.

Planning History:

None

Publicity and Responses if applicable:

The application was advertised on site, and 6 individual properties were consulted by letter. To date no representations have been received.

Head of Engineering and Transport, Highway Section - No Objection, subject to conditions requiring an additional two off street car parking spaces being provided to serve the proposed dwelling.

Neath Town Council - No objections.

Description of Site and its Surroundings:

The donor property, No 39 Cimla Common is a single storey detached bungalow, set within Cimla, a residential suburb of Neath. The dwelling is of a similar design and scale as the two other properties to the east, provided with front and rear gardens. The properties front a highway, beyond which is an open grassed “common”. To the west of the site a

single storey “church hall” is set in a similar building line, and beyond this further residential properties. The area is predominantly residential in character, with some commercial “local needs” facilities and community uses.

The application site is limited to an area of the existing residential curtilage, and sub-divides the plot into two separate units. It incorporates a small section of the front garden for parking of one vehicle, a pedestrian pathway running between the existing dwelling and the adjoining property, No 41, and a significant proportion of what was the rear private garden area, measuring 12m by 12m (144 sq.m).

Brief description of proposal:

Background

Members should be aware that the physical development of the site has been carried out, and the building, partial enclosure and subdivision of this plot has taken place without the benefit of planning permission. Whilst the applicant sought pre-application advice regarding the provision of an outbuilding/annexe to their property from the Local Planning Authority, the building has been constructed as a self-contained residential dwelling, with all associated facilities, and its own services. In addition the applicant has sought a separate postcode and address for this property. As such this application is not for the change of use of an outbuilding to a residential dwelling, but for the retention of a self contained residential dwelling.

The applicant states that the development was originally for a family member to reside in as an “annexe” to the existing dwelling. However, it should be clarified that the scale and nature of the accommodation provided within the building, create a development that the Authority does not consider would be permitted development. As such planning permission for this building as an annexe would still have been required. The sub-division of the site into two separate plots, and the provision of separate services (electric meter etc) to serve the new building, only reinforces the conclusions that the building has not been constructed with the intent of being used as an annexe.

Description

As detailed above, the means of access to the plot is provided via a pedestrian only path 1.4m wide, running parallel with the common boundary to No 41 adjacent. At the front of the site the applicant

proposes to again sub-divide the plot to provide a car parking space for a single vehicle.

In addition to the parking and access to the new dwelling the application site has sub-divided the rear garden of the existing dwelling, enclosing 144 sq.m. (12m x 12m) of the previous rear garden which measured 187.2 sq.m (15.6m deep x 12m wide). This amounts to approximately 77% of the rear garden area which is no longer able to serve the existing dwelling, being enclosed by a timber fence which is set approximately 3.6m (not the 5.12m shown on the plans) off the main rear wall of the original property, and rises to a height of 2.5m high (from the slightly lower ground levels of no. 39).

The new dwelling is “L” shaped and extends almost the total width of the rear garden, 10.05m, by 4.68m deep. It has a projecting wing extending 4.8m by 4m wide, and has a ridged roof to a height of 3.4m. It has a footprint of 66.2 square metres (in comparison to the 76 square metres of the host property, No 39). At its closest point the dwelling is set 5m off the main rear Elevation of the Host property, with the main elevation 9.8m away. A self-contained garden / amenity space is provided between the main elevation and the enclosure with no. 39.

The dwelling provides a lounge/diner, bathroom, study and bedroom. There are windows to the front elevation and to the side elevation of the wing, facing into the plot. Externally it is finished in render with a tiled roof.

Material Considerations:

The material issues for consideration in this application concern the principle of development, having regard to land use and development plan policy, the impact on residential amenity of occupiers of the dwelling and adjoining properties, visual amenity and the pattern, density and character of the area and highway and pedestrian safety.

Policy Context:

Planning Policy Wales, Edition 7, July 2014 in relation to housing provision clearly states that;

*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.

9.3.3 Insensitive infilling, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character or amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing.

9.2.13 Development plans should include clear policy criteria against which applications for development of unallocated sites will be considered. Sensitive design and good landscaping are particularly important if new buildings are successfully to be fitted into small vacant sites in established residential areas. 'Tandem' development, consisting of one house immediately behind another and sharing the same access, may cause difficulties of access to the house at the back and disturbance and lack of privacy to the house in front, and should be avoided. (emphasis added)

In this specific circumstance the development of this site would clearly amount to “Tandem Development” and the potential detrimental impacts of such development are identified within Planning Policy Wales. The use of land fronting another property, and the insensitive sub-division of an existing property, to provide a self contained dwelling is highlighted. These types of development can undermine and damage an area's character and result in detrimental impacts upon the amenity of adjoining properties.

In this case the report will identify the issues raised from this development, and how these matters, highlighted within Planning Policy Wales are present on this site, and therefore that the development would be contrary to the principles set out within Planning Policy Wales.

Technical Advice Note 12: Design, July 2014, also refers to the need to consider local context and character, but at a broad level. In reference to the layout of development it states that;

***Layout of development** - how the layout makes the development integrate with its surroundings whilst taking into consideration the orientation of*

the building to maximise energy efficiency and connectivity (the ways in which routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development); how the external area contributes towards the development and is used to make the development a more sustainable development; how is the chosen site the best location and how it links into adjacent uses.

These issues and impacts are reiterated within Local Planning Policy contained within the Neath Port Talbot Unitary Development Plan.

Policy 5 provides the following overarching statement; *“The area’s built environment will be enhanced where appropriate and/or protected from proposals that would have unacceptable impacts on its character, appearance and on the quality of life”*

This overarching protection and enhancement Policy stance is further detailed in the following policies within the Plan;

POLICY GC1 – NEW BUILDINGS/STRUCTURES AND CHANGES OF USE

Any proposal involving new buildings, structures, change of use, extensions and alterations will not be permitted if it would create an unacceptable impact in failing to (inter alia);

(e) ensure that measures are taken to minimise the adverse impacts of the development on the character and townscape of the surrounding area including building densities, architectural styles, layout patterns, orientation of buildings, scale, height, mass and materials of nearby buildings, structures and infrastructure

(g) ensure that in residential developments, efficient use is made of the site in terms of the density of development including the size and footprint of the buildings, the extent of gardens and curtilages, and the amount and extent of parking and circulation space;

(h) ensure that the layout and design of the development achieves inclusive design.

(i) ensure that the proposal includes appropriate parking, servicing and access provisions and does not create unacceptable hazards or inconvenience for users of highways or rights of way;

(l) ensure that there are reasonable levels of privacy and amenity for occupiers of properties both adjacent to and within the site;

The explanation of this policy goes further to add that; while encouraging the full use of well located land, the Authority will resist proposals which would have unacceptable impacts on amenities and the quality of life for adjacent residents.

POLICY ENV17 – DESIGN

Any proposal that would include new construction or alteration to an existing building's appearance should be well designed. This will include whether it has: (inter alia)

- a) paid sufficient regard to the character of the area, and to conserve biodiversity and strengthen habitat connectivity;*
- b) ensured that its design and operation would not have any unsatisfactory impacts on the occupants of any other properties*

The explanation of this policy goes on to specify that:

Good design has a major influence on conserving and enhancing the character of an area and the quality of life for those using it. This can include not only the appearance of an area, but the enjoyment and quality of life of those occupying and using the properties. The character of the area could include the townscape, landscape or seascape and whether the area or setting retains a local character that it is desirable to protect or complement. It will include the layout, density, scale and setting of buildings, their relationship to each other, open spaces and natural features. A proposal should ensure that it would not create an unacceptable impact upon the occupants (or future occupants) of other properties.

Having regard to the above National and Local Planning Policy context, it is considered that the creation of a self contained residential dwelling in this backland location, including the insensitive sub-division of this plot, provides significant detrimental impacts not only to the occupiers of the existing dwelling through impacts upon their amenity, but also the amenity of future occupiers of the proposed dwelling, and the neighbouring properties. These matters are discussed further within this report.

It is clear that this form of “Tandem” development not only leads to the creation of unacceptable conflict and impacts upon residential amenity,

but also upon design, character, and visual amenity, as referred to both within National Planning Policy enshrined within Planning Policy Wales, and TAN 12: Design, but also within Local Planning Policy set out within the Neath Port Talbot Unitary Development plan.

Visual Amenity:

The introduction of a large-scale building within the rear garden of this existing dwelling significantly reduces the amenity space serving the dwelling, and therefore its setting and context. The building itself and the means of enclosure, at a height of 2.5m, within 3.6m of the main rear elevation of the original property restrains the outlook from the dwelling significantly, and alters the overall character and visual appearance of the plot to the detriment of visual amenity.

Whilst it is accepted that an outbuilding, incidental to the existing dwelling, could still have been accommodated within the rear garden, and that permitted development rights for such a building could have been used to provide a large detached outbuilding, the impacts of this building, and the means of enclosure to sub-divide and create a separate plot, exacerbate the loss of amenity space, and result in unacceptable impacts on amenity. By reason of its size and scale the building is also considered to exceed that which would be considered subordinate to the main dwelling, and fail to respect the character of the local area. The visual impact of this is significant when viewed from adjoining properties to the rear and to the east and west, resulting in a cramped and overdeveloped appearance to the detriment of the visual amenity of the area, which if copied, would further undermine the amenity of the area to the detriment of its character.

Planning Policy Wales, as stated previously concurs with this view; *Insensitive infilling, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character or amenity.*

As such, the building and the necessary means of enclosure to screen and sub-divide this plot and create two separate residential dwellings and curtilage provides a cramped and overdeveloped appearance to the detriment of the visual amenity and character of the area, and to the detriment of the amenity of adjoining properties. This would be contrary to Policy 5, Policies GC1 and ENV17 of the Neath Port Talbot Unitary Development Plan, and the principles of good design as set out within Planning Policy Wales, and TAN 12: Design.

Residential Amenity:

The impacts of the development upon residential amenity are interlinked, but can be separated out into the following three main issues.

Impacts upon the amenity of residents within the existing dwelling (39 Cimla Common)

The development of the building at this scale, and the means of enclosure, result in the loss of approximately 77% of the private amenity space serving the existing property, and results in a tight and controlled enclosure around the donor property. The previous 187.2 sq.m rear garden has as a consequence been reduced to less than 40 sq.m. private amenity area to serve the existing dwelling. Even having regard to the large front garden area, the remaining private area at the rear is considered to be insufficient to serve the dwelling, while the provision of a 2.5m high enclosure within 3.6m of the main rear elevation, significantly restrains the outlook and amenity space for this property, and provides a cramped overdevelopment of this plot to the detriment of the amenity of the existing and future occupiers of the existing dwelling.

The projecting wing of the new dwelling is located only 5 metres from the rear wall of no. 39 and at a level approximately 0.5m higher, beyond a 2.5m high timber enclosure. The proximity of this part of the dwelling is considered to accentuate the impacts on the existing dwelling and reduced amenity area.

Access to this plot is via a pedestrian access only, and therefore any additional movement past the existing dwelling would be restricted to pedestrians. As stated previously, Planning Policy Wales states that *'tandem' development, consisting of one house immediately behind another and sharing the same access, may cause difficulties of access to the house at the back and disturbance and lack of privacy to the house in front, and should be avoided.* Nevertheless, it is considered that the impacts arising from such pedestrian movements, even having regard to the provision of parking fronting the existing dwelling, would not be sufficient to conclude that there would be an unacceptable impact by reason of such movements.

Impacts upon the amenity of the proposed dwelling.

The amenity of residents within this proposed dwelling needs to be considered. The provision of a self contained dwelling in such close proximity to an existing dwelling is considered to be unacceptable, and raises concerns over the potential conflict between occupiers.

Whilst the applicant states that they originally envisaged the building being used as an annexe, or as overspill accommodation for the existing dwelling, they now propose this to function as a self contained dwelling house. As such the need for permanent sub-division and physical screening, through the erection of screen boundary treatments, constrains and defines the separation of the plot. This not only exacerbates the cramped and overdeveloped appearance, but also provides limited amenity space to serve the proposed dwelling. This, together with the limited and constrained access, is considered to provide unacceptable conditions to operate as a residential unit without conflict.

Impacts upon the amenity of adjoining residents.

It is considered that whilst a building ancillary to the existing dwelling in some form may be acceptable, the creation of a self contained dwelling will have detrimental impacts upon the amenity of adjoining properties through the additional disturbance. Access is limited, and any occupiers will have to access the site via the footway subdivided from the existing plot. This additional use is considered to be unacceptable, and over and above that that would be acceptable and expected. The impact of the self-contained use are exacerbated by the size and scale of the detached building in the rear garden close to the joint boundary with the adjacent dwelling.

Highway Safety (e.g. Parking and Access):

The proposed dwelling has been provided with one off street car parking space, located to the front of the site, in front of the existing dwelling.

The Head of Engineering and Transport, Highway Section offer no objection in relation to highway and pedestrian safety, subject to conditions. These include the requirement for a minimum of two off street car parking spaces to serve the new property.

Whilst it is considered that there is sufficient space within the curtilage of the existing property to provide two off street car parking spaces to serve the new dwelling, these would extend outside of the planning application

boundary, and into the land edged blue, that is currently proposed to be retained by the existing dwelling No 39. Nevertheless, while this could increase the impact on the host dwelling, such matters could have been dealt with by condition in the event the application was being recommended for approval.

Conclusion:

It is considered that the introduction of a self contained residential dwelling within the rear garden of this existing residential dwelling would create “Tandem” development that would result in unacceptable detrimental impacts upon the amenity of adjoining residential properties, the amenity of the occupiers of the existing dwelling and occupiers of the proposed dwelling. This would be from both the physical development including the building and the means of enclosure required to subdivide this existing plot, and from the additional disturbance from the creation of a self contained plot in the rear garden. As such it is considered that the development is Contrary to Policies GC1 and ENV17 of the Neath Port Talbot Unitary Development Plan, and contrary to the principles of good design as set out within Planning Policy Wales and Technical Advice Note 12: Design.

Enforcement

Having come to the conclusion above that the retention of the building as a dwelling is unacceptable, it is necessary to consider the expediency of taking formal enforcement action to mitigate the current breach of planning control.

It is first necessary to identify that the breach of planning control is the “construction of a new dwelling without the benefit of planning permission”. It cannot be argued that the building was constructed as ‘permitted development’ because the building was constructed as a self-contained dwelling, with permitted development rights only applying to uses incidental to the main dwelling. Accordingly, Members should note that any Enforcement Notice can require the whole building to be removed and the land restored to its former use as garden serving no. 39.

In taking formal enforcement action, however, it is necessary to consider the harm caused by the development and to ensure that any action taken is proportionate and appropriate to mitigate against the identified harm. It is also appropriate to consider any ‘fall-back position’, including in this case the permitted development rights for outbuildings in rear gardens.

Having regard to the above, it is clear that the use as a dwelling is wholly unacceptable and enforcement action is necessary to preclude such use continuing, while ensuring that the amenity space is restored for use by the host dwelling and impacts on surrounding properties are minimised. Accordingly, it is recommended that formal action is taken through service of an Enforcement Notice which should not only require cessation of the use as a separate dwelling, but also the removal / reinstatement of other works including the removal of all boundary treatments erected on site that sub-divide the plot into two separate plots, and the removal of all meters and individual services supplying the property (such services to be restored to a single supply as for the existing dwelling at 39 Cimla Common).

In addition to the use, it is necessary to consider the physical impact of the building, and in this respect it is considered that the size and scale of the building as constructed is inappropriate, with its substantial size taking up a significant part of the rear garden and the size of the building amounting to a development which is clearly not subordinate to the host dwelling in size or scale. As a consequence it is harmful to the character of the area.

In terms of any 'fallback' position, it is noted that the building cannot be claimed to have been built under the 'old' householder permitted development rights because it has not been constructed or used as accommodation incidental to the main dwelling. In addition, under the 2013 changes to householder permitted development rights, even if the building had been constructed for a use 'incidental' to the main dwelling (for example storage, summer house, gym etc), it would not be permitted development due to its height and proximity to boundaries. Accordingly, it is considered that there is no reasonable fallback position which would have allowed this building to be constructed.

Notwithstanding the above, it is considered reasonable to consider whether any building to the rear would be granted planning permission had such an application have been submitted to the Council. In this respect, while the current building is considered to be excessive and harmful in size/scale, a smaller building would most likely have been acceptable, even if proposed to be used for ancillary accommodation. Accordingly, it is considered that any Notice could choose to *under-enforce* against the breach, by allowing the retention of part of the building. In this respect it is considered that the removal of 3.5m of the existing front-projecting 'wing' (reducing its depth from 4.8m to 1.3m but allowing the owners to retain a gable) would reduce the size and apparent scale of the building so that it would then appear subordinate in

size and scale to the host dwelling, and minimise the impact on adjoining properties and the wider area. This is considered to amount to a reasonable and appropriate action proportionate to the breach of planning control, which does not unnecessarily punish the offender but seeks to mitigate the breach of planning control in the wider public interest.

While the use of this reduced building should ideally be only for purposes incidental to the main dwelling, it is further considered that its use for overspill accommodation (e.g. bedroom, lounge area etc) would not in itself create any unacceptable impacts on neighbouring properties or increase the impact of the development on the wider area. Accordingly, the enforcement action can be worded to allow for such uses should the owner wish.

Accordingly, the recommendation below incorporates an additional request that enforcement action is authorised in accordance with the above assessment. Members should note, however, that the recommendation requires either the demolition of the building and restoration of the site to its former condition OR works in accordance with the above.

RECOMMENDATION: Dual Recommendation

A) That planning permission is REFUSED on the following grounds: -

(1) By reason of its size and scale, its backland location and the subdivision of the existing rear garden serving no. 39 Cimla Common, the proposed new dwelling would amount to a cramped form of overdevelopment which fails to respect the character and pattern of development within the area, contrary to Policy 5, Policies GC1 and ENV17 of the Neath Port Talbot Unitary Development Plan, and the principles of good design as set out within Planning Policy Wales, and TAN 12: Design.

(2) The proposed new dwelling has resulted in the loss of a substantial part of the existing rear garden serving no 39 Cimla Common which, together with the means of enclosure that subdivide this existing plot and create two separate residential dwellings, and the proximity of the dwelling to the existing property, result in an unacceptable impact upon the residential amenity of residents within the existing dwelling, contrary to Policy 5, Policies GC1 and ENV17 of the Neath Port Talbot Unitary Development Plan, and the principles of good design as set out within Planning Policy Wales, and TAN 12: Design.

B) That authorisation is granted to take formal enforcement action by the service of an Enforcement Notice requiring the following;

Either:

1. The demolition of the building and restoration of the site to its former condition;

Or

1. The cessation of use as a self-contained residential unit;
2. The removal of all kitchen units and equipment;
3. The removal of all meters and individual services supplying the property, and that if any services are to be retained that these are connected to the meters within the existing dwelling, known as Crossways, 39 Cimla Common only.
4. The removal of all boundary treatments erected on site that subdivide the site into two separate plots.
5. Demolition of a 3.5m section of the building from the wing projecting towards no. 39 Cimla Common, and reinstatement of a blank, rendered gable;
6. That the building as altered shall not be used for any purposes other than those incidental to the use of the existing dwelling, known as Crosswinds, No 39 Cimla Common.

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3. Proposed Confirmation of Tree Preservation Order T328 on land at rear of 5 Channel View, Bryncoch, Neath

3.1	TPO NO: T328	Page Nos:	Wards Affected: Bryncoch North
LOCATION:	Land at rear of 5 Channel View, Bryncoch, Neath		

DESCRIPTION

Request for confirmation of a Tree Preservation Order

SITE ADDRESS

Land at rear of 5 Channel View, Bryncoch, Neath

BACKGROUND INFORMATION

Tree Preservation Order ref. T328 was made on 28th August 2014 in respect of a single Oak tree on land to the rear of 5 Channel View, Bryncoch, Neath. Authorities can only confirm an Order within a six month period beginning with the date on which the Order was made.

People must be given the opportunity to object to, or comment on, a new Tree Preservation Order and, before deciding whether to confirm an Order, the local authority must take into account all 'duly made' objections and representations that have not been withdrawn.

Objections to a new Tree Preservation Order can be made on any grounds.

Having regard to receipt of an objection, the matter was reported to a delegated panel of Officers to confirm the TPO. Ward Councillor Bryant, however, has asked for the matter to be referred to the Planning and Development Control Committee due to his concerns that retention of the tree may impact on the safety of adjoining residents.

THE TREE PRESERVATION ORDER

The tree in question (T1) is situated on a public right of way to the rear of 5 Channel View, Bryncoch, and near the boundary of 3 Channel View. The land on which it is located is unregistered.

Following concerns from several residents that trees were being felled, the site was inspected by the Authority's Arboriculturist on the 28th August 2014. The tree was considered to be under immediate threat of being felled as the resident of number 3 Channel View had a similar adjacent tree felled the week before and was arranging an arboriculturist to fell this tree (on the day the Emergency Tree Preservation Order was served).

The Local Planning Authority may make a Tree Preservation Order if it appears expedient in the interests of amenity to make provisions for the preservation of trees or woodlands in their area.

In this case the Arboriculturist confirmed that the tree was healthy, clearly visible from a number of locations, and worthy of protection. Officers therefore considered the protection of the tree to be in the interest of the visual amenity and character of the immediate area, with the tree prominent above the roof ridgeline and contributing to a green backdrop behind the houses on Channel View.

Having regard to the above, under delegated powers an Emergency Tree Preservation Order was made on the 28th of August 2014 relating to an English Oak (*Quercus Robur*). Copies of notices and orders were posted on site on the morning of 29th August 2014 and hand delivered to neighbouring properties on the same day.

REPRESENTATIONS RECEIVED

One objection letter has been received objecting to the TPO on the following summarised grounds: -

- 1) The tree is large and unmanageable.
- 2) Fallen leaves can pose a slip hazard. Who is responsible for cleaning up fallen leaves?
- 3) Risk of the tree falling in storm conditions.

RESPONSE TO OBJECTIONS / APPRAISAL

The objections raised are addressed as follows:

- 1) The Tree Preservation order will not prevent the maintenance of the tree to arboricultural standards, only require the Authority's consent to ensure any works are necessary.

- 2) Trees losing leaves in Autumn is a natural phenomenon, and it is the responsibility of a landowner to clear up leaves landing on their own property. Such concerns do not, in any event, outweigh the contribution made by the tree to local character.
- 3) The Arboricultural Officer is satisfied that the tree is a healthy specimen with no visible areas of decay or disease. He notes that while trees do occasionally fall and damage property or injure members of the public, he did not identify any physiological problems or structural defects which could render this tree as being at high risk of collapse. Accordingly, it is considered that with suitable stewardship in future, there are no grounds to consider the tree to represent an unacceptable danger to the health or safety of residents nearby or using the public footpath. If the landowner is negligent in maintaining the tree they may be responsible for any damage caused.

In addition to the above, Ward Councillor Bryant asked for the matter to be referred to Committee due to his concerns that retention of the tree may impact on the safety of adjoining residents. Such matters have been addressed by point 3 above.

CONCLUSION

For the reasons given above, the tree is considered to merit protection and the objections raised to the TPO, and concerns raised by the local Councillor, are not considered sufficient to outweigh the contribution made by the tree to visual amenity. It is therefore considered expedient to confirm the Tree Preservation Order in order to protect the tree due to its contribution to the visual amenity of the area.

RECOMMENDATION

That Tree Preservation Order T328 be confirmed as an opposed Tree Preservation Order, and that all people previously served with the made Order are notified of the order's confirmation; the date it was confirmed; the time within which an application may be made to the High Court; and grounds on which an application to the High Court may be made.

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SECTION B – MATTERS FOR INFORMATION

4. APPEALS RECEIVED

Appeal Ref: A2014/0010 **Planning Ref:** P2014/0714

PINS Ref: APP/Y6930/A/14/226406

Applicant: Mr J Thomas

Proposal: Two storey detached dwelling (Outline with details of access not reserved).

Site Address: Land Part of 1 Quarry Place, Gwaun Cae Gurwen

Start Date: 7 October 2014

Appeal Method: Hearing

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5. APPEALS DETERMINED

(a) Planning Appeals

Appeal Ref:	A2014/0008	Planning Ref:	P2013/0038
PINS Ref:	APP/Y6930/A/ 14/2218029		
Applicant:	M7 Real Estate Ltd		
Proposal:	Demolish and replace the existing 8 industrial units with up to 34 residential units.		
Site Address:	Lon Hir, Alltwen, Pontardawe, SA8 3DE		
Decision Date:	30 September 2014		
Decision Code:	Dismissed		

The main issues in the determination of this appeal concerned the effect of the proposed reduction in available employment land on the local economy, whether the proposed contribution of the scheme to the supply of local housing would outweigh any harm identified in relation to loss of employment land and any impact upon traffic volumes / parking pressure and local services.

The Inspector noted that the application premises do not represent a bad neighbour use, provide a lower cost alternative to modern, more prestigious units and that there were tenants in more than half the units at the time of the appeal. The Inspector also considered the high occupancy at the smaller sized units at the nearby Alloy Industrial Estate and that it is necessary to provide a stock of medium-sized units at Lon Hir that could allow these locally based operations to grow. The Inspector summarised stating that the appeal premises presently provides a valuable contribution to the local mix of employment sites and concluded that the proposals would harm the provision of local employment sites contrary to Policy EC1 of the UDP.

In relation to the issue of housing supply, the Inspector concluded that the housing related benefits of the scheme were not sufficient to outweigh the harmful effect on the local economy that would arise from the loss of the sites employment function.

Finally, the Inspector noted that the scheme would increase car traffic volumes along Lon Hir but would reduce the volume of heavy goods vehicles. The Inspector also noted objector's comments relating capacity of local services including the health centre and primary school. However, the Inspector concludes that given the scope to impose conditions to mitigate some of these concerns, together with the fact that the Head of Engineering and Transport (Highways section) offered no objection, there would not be sufficient reason to withhold permission for the scheme, had he found it acceptable in relation to the issues of housing supply and loss of employment land.

In view of the above the Inspector dismissed the appeal.

**6. DELEGATED APPLICATIONS
DETERMINED BETWEEN 23RD SEPTEMBER 2014 AND
13TH OCTOBER 2014**

1	App No. P2014/0094	Type Change of Use
Proposal Change of use of church to single dwelling and construction of detached garage		
Location St Marys Church, Ynysmeudwy Road, Ynysmeudwy		
Decision Approval with Conditions		
Ward Pontardawe		

2	App No. P2014/0137	Type Householder
Proposal Part demolition of existing store and construction of front extension and porch, new ridged roof including an increased ridge height to accommodate first floor accommodation, plus dormer windows. (Bat Survey Received 08/07/14) and bat house		
Location Laundry Cottage adjacent to The Mill, Lane From Plas Road To Pen Y Bontbren Farm, Rhos Pontardawe, SA8 3JT		
Decision Approval with Conditions		
Ward Rhos		

3	App No. P2014/0296	Type Outline
Proposal Detached dormer bungalow (Outline with all matters reserved)		
Location Land Adjoining, 104 Dulais Road, Seven Sisters, Neath SA10 9ES		
Decision Approval with Conditions		
Ward Seven Sisters		

4	App No. P2014/0345	Type Full Plans
Proposal Single storey rear extension and detached garage/residential annexe		
Location Post Office, Fairway, Sandfields, Port Talbot SA12 7HR		
Decision Approval with Conditions		
Ward Sandfields West		

5	App No. P2014/0409	Type Full Plans
Proposal Residential development comprising 9 semi-detached and detached dwellings with associated access road, engineering and retaining works (alteration to levels than approved under P2013/0132)		
Location Groves Road, Neath		
Decision Approval with Conditions		
Ward Neath South		

6	App No. P2014/0415	Type Full Plans
Proposal	Change of use of former school to two no. 3 bedroom semi detached dwellings, additional window on the rear elevation, alteration to fenestration and canopy roof on the front elevation and pillars and ramped access to the front elevation.	
Location	Ysgol Gynradd Gymraeg Draddodiadol Rhiwfawr, Rhiw Road, Rhiwfawr, Abertawe SA9 2RF	
Decision	Approval with Conditions	
Ward	Cwmllynfell	

7	App No. P2014/0467	Type Full Plans
Proposal	Retention of 8 dwellings, engineering works, car parking and boundary treatments plus proposed landscaping.	
Location	Garthmor Phase 3, Pearson Way, Neath SA11 2EJ	
Decision	Approval with Conditions	
Ward	Neath East	

8	App No. P2014/0508	Type Full Plans
Proposal	Construction of temporary access track and associated works (Permission for a temporary period of 24 months, within which a maximum of 12 weeks use would be permitted)	
Location	Land South of Coed Darcy, Former BP Refinery, Llandarcy	
Decision	Approval with Conditions	
Ward	Coedffranc West	

9	App No. P2014/0512	Type Discharge of Cond.
Proposal	Details to be agreed in association with condition 11 (Surface Water Drainage) of application P2014/0243 approved on the 20 May 2014.	
Location	Port Talbot Parkway Railway Station, Cramic Way, Port Talbot SA13 1RU	
Decision	Approval with no Conditions	
Ward	Margam	

10	App No. P2014/0520	Type Householder
Proposal	First floor rear extension, demolition of garage, single storey side/rear extensions plus raised decking to rear.(amended ownership certificate)	
Location	16 Gnoll Road, Godre'r Graig, Swansea SA9 2PA	
Decision	Approval with Conditions	
Ward	Godre'rgrraig	

11	App No. P2014/0524	Type Change of Use
Proposal	Change of use from 2 retail units (Class A1) to Coffee Shop (Class A3)	
Location	5A& 5B Croft Road, Neath SA11 1RW	
Decision	Approval with Conditions	
Ward	Neath North	

12	App No. P2014/0538	Type Advertisement
Proposal	Externally illuminated fascia sign.	
Location	4 The Parade, Neath SA11 1PU	
Decision	Advert Approved with Std Cond	
Ward	Neath North	

13	App No. P2014/0549	Type Householder
Proposal	First floor rear extension plus insertion of first floor windows to side elevations of existIng dwelling.	
Location	Deri Isaf Farm, Deri Road, Rhiwfawr, Swansea SA9 2RH	
Decision	Approval with Conditions	
Ward	Cwmllynfell	

14	App No. P2014/0592	Type Outline
Proposal	Detached two storey dwelling (Outline with all matters reserved)	
Location	Land adjacent to Tynllechau, Main Road, Cilfrew, Neath SA10 8LW	
Decision	Approval with Conditions	
Ward	Aberdulais	

15	App No. P2014/0629	Type Householder
Proposal	Retention and completion of Single storey rear extension and hardstanding to front garden to facilitate off street car parking.	
Location	15 Fforest Hill, Aberdulais, Neath SA10 8HD	
Decision	Approval with Conditions	
Ward	Aberdulais	

16	App No. P2014/0666	Type Full Plans
Proposal	Single-storey lean-to conservatory extension to side elevation.	
Location	Talbot Court Nursing Home, Talbot Road, Port Talbot SA13 1DR	
Decision	Approval with Conditions	
Ward	Port Talbot	

17	App No. P2014/0698	Type Change of Use
Proposal	Change of use from Post Office (use class A1) to mixed use Café and Community Use (sui generis use)	
Location	Former Post Office, Victoria Road, Sandfields, Port Talbot	
Decision	Approval with Conditions	
Ward	Sandfields East	

18	App No. P2014/0705	Type Full Plans
Proposal	Construction of 40 MW biomass power station. Amendment to previous application P2008/1409 (Approved on appeal on the 8/3/2011) Changes to layout and design, together with additional fuel conveyor, electricity substation, firewater tank, silo and water discharge balancing pond.	
Location	Longlands Lane, Margam, Port Talbot SA13 2SU	
Decision	Approval with Conditions	
Ward	Margam	

19	App No. P2014/0728	Type Discharge of Cond.
Proposal	Details to be agreed in association with condition 5 (Surface Water Drainage for construction phase) of application P2013/1090 granted on the 02/07/14.	
Location	Plot 20 Farteg Fawr, Bryn, SA13 2RF	
Decision	Approval with no Conditions	
Ward	Bryn & Cwmavon	

20	App No. P2014/0741	Type Householder
Proposal	Single storey front extension	
Location	1 Monastery Road, Neath Abbey, Neath SA10 7DH	
Decision	Approval with Conditions	
Ward	Dyffryn	

21	App No. P2014/0748	Type Householder
Proposal	Retention and completion of Detached Garage	
Location	14 Beechwood Avenue, Neath SA11 3TE	
Decision	Approval with Conditions	
Ward	Neath North	

22	App No. P2014/0757	Type Discharge of Cond.
Proposal	Details pursuant to Condition 5 (Security Lighting) of application P2014/0558 approved on 04/08/14	
Location	ARC Car Wash, Pantyrheol, Neath SA11 2HD	
Decision	Approval with no Conditions	
Ward	Neath East	

23	App No. P2014/0759	Type LawfulDev.Cert-Prop.
Proposal	Lawful development certificate for external alterations to existing garage to facilitate its use as additional living accommodation.	
Location	19 Cefn Road, Gwaun Cae Gurwen, Ammanford SA18 1HF	
Decision	Issue Lawful Dev.Cert.	
Ward	Gwaun-Cae-Gurwen	

24	App No. P2014/0760	Type Householder
Proposal	Single storey rear extension	
Location	11 Dyfed Road, Neath SA11 3AN	
Decision	Approval with Conditions	
Ward	Neath North	

25	App No. P2014/0761	Type Householder
Proposal	Extension to existing front dormer	
Location	10 Maeslan, Rhos Pontardawe, Swansea SA8 3HH	
Decision	Approval with Conditions	
Ward	Rhos	

26	App No. P2014/0796	Type Outline
Proposal	Demolition of former boxing gym and erection of 3 number dwellings (Outline with all matters reserved).	
Location	Land Adjacent to, 49 Brytwn Road, Cymmer, Port Talbot SA13 3EN	
Decision	Approval with Conditions	
Ward	Cymmer	

27	App No. P2014/0811	Type Full Plans
Proposal	Proposed use of former tennis court as childrens outdoor sports and play facility including shelters, skateboard equipment addition double gates and other ancillary equipment. (Amendment of application P2013/0614 granted on the 10/09/13).	
Location	Tennis Courts Recreational Ground, Neath Road, Bryn	
Decision	Approval with Conditions	
Ward	Bryn & Cwmavon	

28	App No. P2014/0813	Type Full Plans
Proposal	Additional turnstiles to staff entrance	
Location	Amazon, Ffordd Amazon, Crymlyn Burrows, Swansea SA1 8QX	
Decision	Approval with Conditions	
Ward	Coedffranc West	

29	App No. P2014/0828	Type Householder
Proposal	single storey front and side extension.	
Location	79 Windsor Village, Aberavon, Port Talbot SA12 7EY	
Decision	Approval with Conditions	
Ward	Aberavon	

30	App No. P2014/0831	Type Advertisement
Proposal	Retention of 1No. internally illuminated fascia sign, and 13 non-illuminated information signs.	
Location	Co-Operative Retail Services, High Street, Glynneath, Neath SA11 5AL	
Decision	Approval with Conditions	
Ward	Glynneath	

31	App No. P2014/0834	Type Householder
Proposal	Two storey rear extension.	
Location	4 Alma Terrace, Taibach, Port Talbot SA13 1TN	
Decision	Approval with Conditions	
Ward	Taibach	

32	App No. P2014/0844	Type Householder
Proposal	Front porch including ramp and handrail	
Location	47 Hopkin Street, Aberavon, Port Talbot SA12 6HA	
Decision	Approval with Conditions	
Ward	Aberavon	

33	App No. P2014/0855	Type LawfulDev.Cert-Prop.
Proposal	Lawful development certificate for the conversion of the garage to associated living accommodation, external alterations including removal of ridged roof and creation of a roof terrace.	
Location	Portia, 22 Morgan Street, Trebanos Pontardawe, SA8 4DW	
Decision	Not to Issue Lawful Dev.Cert.	
Ward	Trebanos	

34	App No. P2014/0864	Type LawfulDev.Cert-Prop.
Proposal	Lawful Development Certificate (proposed) for a single storey rear extension	
Location	3 Heol Y Wern, Caewern, Neath SA10 7SB	
Decision	Issue Lawful Dev.Cert.	
Ward	Bryncoch South	

35	App No. P2014/0871	Type Screening Opinion
Proposal	Request for screening opinion under Regulation 5 of the Environmental Impact Assessment Regulations for the installation of a 19.7 hectares solar array extension (9.2MW) to an existing solar farm and associated works.	
Location	Former Bp Chemicals, Baglan, Port Talbot	
Decision	No Objections	
Ward	Baglan	

36	App No. P2014/0875	Type Screening Opinion
Proposal	Screening Request (EIA Regs) for a 10MWp Solar Farm.	
Location	Land Around Coed Y Glyn Farm, Ty'n Y Graig, Crynant, Neath SA10 8TB	
Decision	EIA Not Required	
Ward	Crynant	

37	App No. P2014/0879	Type Discharge of Cond.
Proposal	Amended details to be agreed in association with condition 5 (Drainage scheme) of application P2007/1378 granted on 07/11/2008	
Location	Evandale, Tan Y Bryn Terrace, Cwmgwrach, Neath SA11 5PU	
Decision	Approval with no Conditions	
Ward	Blaengwrach	

38	App No. P2014/0894	Type Lawful Dev.Cert-Prop.
Proposal	Single storey rear extension (Lawful Development Certificate - Proposed Use)	
Location	17 Park Street, Tonna, Neath SA11 3JQ	
Decision	Issue Lawful Dev.Cert.	
Ward	Tonna	

39	App No. P2014/0908	Type Discharge of Cond.
Proposal	Details to be agreed in association with condition 2 (external materials) of application P2013/1043 granted on 13/06/14.	
Location	Ty Afan Secondary Centre, Aberavon, Port Talbot SA12 6DX	
Decision	Approval with no Conditions	
Ward	Aberavon	

40	App No. P2014/0916	Type Non Material Amendment (S96A)
Proposal Non-material amendment to Planning permission P2014/0655 - Front entrance door and window to front elevation of new extension in lieu of window to front and new side entrance door.		
Location 17 Heol Y Nant, Baglan, Port Talbot SA12 8ER		
Decision Approval with no Conditions		
Ward Baglan		

41	App No. P2014/0926	Type Discharge of Cond.
Proposal Details pursuant to condition 5 (External Materials) of Planning Permission P2006/1670 (Approved on the 19/11/2007)		
Location Land Adjacent, Nos 10 & 12 Bronantfer, Gwaun Cae Gurwen, Ammanford SA18 1EN		
Decision Approval with no Conditions		
Ward Gwaun-Cae-Gurwen		

42	App No. P2014/0927	Type Discharge of Cond.
Proposal Details pursuant to the discharge of Condition 2 (External Materials) of Planning Permission P2013/0863 (Approved on the 13/11/13)		
Location Land at Neath Town Centre, (Including Tesco, Magistrates Court and Former Civic Centre), NEATH SA11 3EP		
Decision Approval with Conditions		
Ward Neath North		

43	App No. P2014/0931	Type LawfulDev.Cert-Prop.
Proposal Certificate of Lawfulness (proposed) for a proposed single storey side extension		
Location 8 Mozart Drive, Sandfields, Port Talbot SA12 7TY		
Decision Issue Lawful Dev.Cert.		
Ward Sandfields West		

44	App No. P2014/0943	Type Discharge of Cond.
Proposal Details pursuant to Condition 26 (Design stage Code Certificates) of Planning Permission P2014/0466 (Approved on the 20/08/14)		
Location Former Star Inn, Pen Y Dre, Neath SA11 3HF		
Decision Approval with no Conditions		
Ward Neath North		

45	App No. P2014/0949	Type Discharge of Cond.
Proposal	Details pursuant to Condition 28 (external brick details) of Planning Permission P2012/0171 (Approved on the 4/10/13)	
Location	Land rear of, 102 Crymlyn Road, Skewen, Neath SA10 6DT	
Decision	Approval with no Conditions	
Ward	Coedffranc West	

46	App No. P2014/0953	Type Discharge of Cond.
Proposal	Details to be agreed in association with condition 2 (External materials) of application P2014/0743 granted on 18/09/2014	
Location	Land To The South Of Old Castle Farm, Fairy Land Road, Tonna, Neath SA11 3QD	
Decision	Approval with no Conditions	
Ward	Tonna	

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