



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **Report of the Head of Legal and Democratic Services**

### **CABINET**

**29<sup>th</sup> May 2024**

### **ACCESS TO MEETINGS/EXCLUSION OF THE PUBLIC**

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.
<b>Item (s):</b>	<b>Agenda Item 13</b> – Proposed Easement in Perpetuity in Respect of an Underground Foul Sewerage Pipe and Apparatus within Council Land at Pontardawe Retail Park, Ffordd Parc Ynysderw, Pontardawe – Lidl Great Britain Ltd
<b>Recommendation(s):</b>	That the public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it/they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.
<b>Relevant Paragraph(s):</b>	14

## **1. Purpose of Report**

To enable Members to consider whether the public should be excluded from the meeting in relation to the item(s) listed above.

Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.

Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

## **2. Exclusion of the Public/Public Interest Test**

In order to comply with the above mentioned legislation, Members will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it/they involve(s) the likely disclosure of exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in Appendix A.

Where paragraph 16 of the Schedule 12A applies there is no public interest test. Members are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

**3. Financial Implications**

Not applicable

**4. Integrated Impact Assessment**

Not applicable

**5. Valleys Communities Impact**

Not applicable

**6. Workforce Impact**

Not applicable.

**7. Legal Implications**

The legislative provisions are set out in the report.

Members must consider with regard to each item of business the following matters.

- (a) Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.

and either

- (b) If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test in maintaining the exemption outweighs the public interest in disclosing the information; or
- (c) if the information falls within the paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test by must consider whether they wish to waive their privilege in relation to that item for any reason.

**8. Risk Management**

To allow Members to consider risk associated with exempt information.

**9. Recommendation(s)**

As detailed at the start of the report.

**10. Reason for Proposed Decision(s):**

To ensure that all items are considered in the appropriate manner.

**11. Implementation of Decision(s):**

The decision(s) will be implemented immediately.

**12. List of Background Papers:**

Schedule 12A of the Local Government Act 1972

**13. Appendices:**

Appendix A – List of Exemptions

## Appendix A

<b>NO</b>	<b>Relevant Paragraphs in Schedule 12A</b>
<b>12</b>	Information relating to a particular individual
<b>13</b>	Information which is likely to reveal the identity of an individual
<b>14</b>	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
<b>15</b>	Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority
<b>16</b>	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
<b>17</b>	Information which reveals that the authority proposes: <ul style="list-style-type: none"><li>• To give under any enactment a notice under or by virtue of which requirements are imposed on a person, or</li><li>• To make an order or direction under any enactment.</li></ul>
<b>18</b>	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.