

SECTION A – MATTERS FOR DECISION

Planning Applications Recommended for Refusal Following Members Site Visit

<u>APPLICATION NO:</u> P2015/0494	<u>DATE:</u> 13/11/2015
PROPOSAL:	Outline application for 17 No dwellings together with matters of access, layout and drainage
LOCATION:	Land adjacent to Sports Centre, Tonmawr , Neath SA12 9UR
APPLICANT:	Pelenna Property Partnership Ltd.
TYPE:	Full Plans
WARD:	Pelenna

Background

This application is reported to Committee at the request of the local ward Member, Cllr Martin Ellis on the grounds that: - there has been an overlap in development plans since the application was submitted which makes consideration of the application by Members important as there is a strong community interest; that the application is arguably an extension to the settlement boundary that has coherence and would provide an important addition to the housing stock in a village with no or few vacant homes of any type, and a strong local demand by my residents and returnees to this strong community; The increased demands on services would be small and the beneficial impact on the community outweighs other considerations; and that Tonmawr is sufficiently close to main services to be a sustainable base for residents in relation to jobs, education and health.

The application was reported to the Planning Committee meeting on the 12th July 2016 where it was deferred for a site visit to enable Members the opportunity to appreciate the settlement limit and immediate context of the site and to fully appreciate the impact of the development having regard to the high degree of public interest in support of the development. The Members site visit is to be held on the morning of 2nd August 2016.

The report which follows is that which was presented to Members on 12th July 2016, albeit amended to include representations received on the Officers Report and in support of the application from Councillor

Martin Ellis, the applicant and Dan-y-Coed Community Association (previously included on an amendment sheet).

Planning History:

Application Site:

03/0331 New Foul sewer - Approved 6/5/03

Adjoining Site:

03/1086 Outline application for residential development - Approved 2/12/03

06/1432 8 Dwellings - Approved 30/1/07

Publicity and Responses if applicable:

The application was advertised on site and in the press and two individual properties were also notified.

To date the following representations have been received :-

Peter Black (formerly AM) wrote in support of the application and can be summarised as follows:

- Tonmawr is in need of new investment, having just lost its school. This development would be an important signal that the area is open for business, bring new people into the village including youngsters who want to stay in the area.
- Concern is expressed at the way the village envelope has been redrawn around Tonmawr (within the LDP), it appears that having closed the school the Council is now seeking to constrict the areas future development, by excluding land that has previously been considered suitable for housing.

Bethan Jenkins AM - Has written in support of the proposal and is summarised below:

- The development would bring employment, housing and money into an area which has lost their primary school, as well as the Fracking test drilling being approved in Pontrhydyfen. This

development would give residents hope for the growth of their village.

- Further information, drawings, plans and biodiversity studies have been provided however a decision has still not been given.

Jeremy Miles AM - Has written in support of the proposal and is summarised below:

- The development is a former asset of Tonmawr 2000, a project developed by local residents for the 'sustainability and wellbeing of the village by opportunities of employment, better health and future growth', the final phase of which was to use the adjacent parcel of land for affordable and sustainable housing
- Concerned about required submission of large volume of additional information before the plans could be registered, and subsequent requirement for extensive biodiversity / reptile surveys, consequence of which was delays, resulting in the LDP superseding the UDP.
- Concern about different approach between this site and Tonna (Planning Application Ref; P2015/0363)
- Understands that the application has support within the community, and would lead to a development in keeping with the original aims and objectives of the Tonmawr 2000 project. In a village which has recently lost facilities including the closure of the primary school and in sight of the stringent, costly surveys and assessments requested and submitted, asks that full consideration be given to this development at this time.

Councillor Martin Ellis advised that he regrettably was unable to attend the meeting on 12th July 2016 and asked that his representations in support of the application were reported to Members. These are summarised below:-

1. As local member I regularly have queries from young people looking for accommodation within Tonmawr wishing to remain in the village where they have friends and support from family, for example for childcare while working, there is a regular demand for homes that are simply unavailable. The houses proposed in this application would meet this demand and make a good contribution to housing needs, without environmental impact and with strong community support. Transport and distance from work and main centres for services are relatively good, mostly within a ten minute drive or bus journey.

2. The additional homes provided will contribute to the total housing requirements and in a practical way free up an equal number of homes elsewhere.
3. The original application was under the UDP and planning permission would have been very likely; however the delay in processing the application has made the period of consultation fall under the LDP and put the application at risk. This I believe puts us as a planning authority in a position where we should be looking at the application under the rules of the UDP and with regard to the interest of the community.
4. Under the LDP there is nevertheless some flexibility under LDP para 2.5.50 to consider supporting smaller valley communities to make them resilient and sustainable to halt decline and depopulation. In this application housing that is affordable and meets local needs should be supported. A previous application in Tonna, P2015/0363, under similar circumstances did find support earlier this year.
5. The land in the application falls naturally into the settlement area of the village, between John's Terrace, Pelenna Close and the Sports Centre. It does not form a boundary with a green "wedge" is clearly acceptable to local residents and businesses and the applicants can demonstrate strong community support.

I would ask members of the committee and officers to consider in depth the benefits of supporting this application with an open mind and due regard to community interest, the positive impact on local housing stock and local economic and social impacts.

Following review of the Officer's report, Councillor Ellis makes the following additional observations: -

1. I am not fully convinced by all the arguments, particularly with regard to the open countryside description of the site. This is very clearly part of the natural settlement of the village itself, bounded by houses and other building, and members seeing this would I am sure be able to judge this for themselves.

2. I also believe that the LDP should have a flexible approach and under 2.5.50 the case for building sustainable resilient communities to halt their decline is made, and relevant here.
3. The officer's report makes too much of the need to conform to the LDP at the expense of common-sense. Members of the committee would in my view have a better feel for the site, the village and the proposed development with a site visit. Accordingly I would be obliged if this could be put forward to the meeting as an option.
4. There is also a case for consideration under Policy Planning Wales that guided the development of the LDP. Under 4.7.8 "minor extensions to settlements may be acceptable, in particular where it meets a local need for affordable housing...". Also under 9.3.2. "infilling of small gaps ...in particular for affordable housing to meet local need may be acceptable...". In my view the site does meet the LDP criteria as a minor extension to the settlement.

The applicant has submitted a petition with 245 signatories, collected from Glan Pelenna, Efail Fach, Tonmawr Road, Curwen Close, Danycoed, Brynsiriol, MinY Coed, Maesgwyn, Railway Terrace, Abergwenffrwd Row, Johns Terrace, Blaenavon Terrace and the individual properties sited within the village. The petition offers "Support for the above development which would benefit the community and groups/businesses within" and "requests that the above application be granted planning permission by NPTCBC Planning Committee". The petition also includes a number of additional 'comments' by individual signatories, including: -

- New housing needed in village
- Good idea / good for village
- Tonmawr needs development
- No social housing around

The applicant has also provided 22 letters of support in regard to the proposed development from local properties, clubs and businesses. These letters can be summarised as follows:

- There are limited facilities within the village due to the low population. The prospect of having an increase of families will support the sustainability of the village;

- Off-springs of residents have limited opportunities to purchase suitable properties with no alternative but to move out of the village. This development would also provide the opportunity for young families to return to the village, to quality homes which would reinforce the already strong community spirit;
- High demand for previous self-build plots, with previous seven plots being bought from either existing or previous residents, all of who had been born in the village.
- due to the site's location and it offering a mix including low cost housing, feel it would again offer people the chance to stay right at the heart of the village.
- The development would provide benefits and support to local clubs, groups, facilities and local businesses.
- Increased potential of sustainability for businesses
- The development will improve the reputation and character of the village, providing a 'lift' to the village which has been subdued since the closure of the school, and give the community hope for its future.
- The construction of the dwellings would create jobs for local residents.
- The development will fit comfortably within the upper and lower villages and will not look out of place, while adding balance to the village. It would be a visible improvement to the development land.
- The proposal would improve the path, which is in a poor condition and improve pedestrian access between the upper and lower area of the village.
- due to the development land being set down and the elevated position of John's Terrace, there is no impact of loss of view being caused by the development.
- On an aesthetic aspect, the site will improve the land
- As a Construction Management Professional with over 30 years' experience, and, after looking at the proposed plans, I can comment that it is a well-designed development that will sit naturally within the structure of the existing settlements and is ideally situated next to drainage utilities etc.
- Potential of financial benefit to local firms who employ residents and also residents who are self-employed construction workers with the knock on effect of this money be kept within the village.
- The overall benefit to the village will only be good.

The applicant has offered the following (summarised) comments on the Officers report presented to Members on 12th July 2016.

- 1) The following sections from Policy Planning Wales, the guidance document for the LDP and the national planning policy:

4.7.8 Development in the countryside should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where it meets a local need for affordable housing, but new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design.

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.

We therefore feel that the site still meets the criteria of the LDP planning policy as a minor extension to the settlement area having regard to the policy criteria of infrastructure, access, habitat and landscape.

- 2) Within the LDP, section 2.5.50 - a flexible approach to development - ensure protection of vulnerable rural communities
- 3) In the conclusion the site is described as being "edge of settlement" and "represents an unsustainable and unjustified form of residential development in the countryside that would detract from the character and appearance of the surrounding area". The boundary of the site is adjacent to two settlement boundaries. It is not open countryside.
- 4) In the planning history of the site, no mention is made of the many and substantial applications involved with the Tonmawr 2000 project totalling nearly 20,000sq ft, the last application being made in 2005 for the front extension again adjacent to the site.

- 5) Raises concerns over why the Henfaes Road application was progressed under UDP when the difference in validation dates of Henfaes and Tonmawr was only 20 days.

In addition, the applicant has submitted a letter from the **Headteacher of YGG Castell Nedd**, “regarding the educational options that are currently available to the existing residents, and to any prospective residents, within the village of Tonmawr”. The Headteacher states that Ysgol Gymraeg Castell-nedd is the designated Welsh school for Tonmawr; that they have a number of children from Tonmawr already on roll at our school, and have recently seen a steady increase in those numbers since the closure of the village school. Furthermore, a daily bus is provided for these children.

One letter of support has been received from Dan-y-Coed Community Association which states that the village has been devastated by the closure of the local school and demise of Tonmawr 2000 Enterprise. The Community Centre is run by volunteers of the Association which provides a venue for 7 named local groups. As the population is getting older and fewer in number an increase in people living in the village is required to ensure its sustainability. The building of new houses would benefit the aforementioned groups and provide greater opportunities for employment and enhance the local area.

One letter of objection has also been received and can be summarised as follows:

- She has lived in her property since 1951 and had never has a problem with flooding until 2011, when the system could not cope with heavy rainfall which caused the contents of the foul sewer to mix with the storm drain water to flood her garden. She associates this problem with the development of 8 houses close to the proposed development site. She is concerned that an extra 17 dwellings up the valley from her, will only increase until Welsh Water renew/repair their pipes to incorporate extra dwellings on their drainage system. She would like an assurance that if the development was approved it would not cause her more problems than at present.

Pelenna Community Council: advises that they support in principle the outline application and see this as a positive development for Tonmawr.

Natural Resources Wales: No objection

Welsh Water: No objection, subject to the imposition of conditions.

Footpaths Officer: advises that a footpath crosses the site at its frontage.

National Grid Plant Protection: No adverse comments.

The Head of Engineering and Transport (Highways): No objection subject to conditions including need for access road to be widened / lit / drained in accordance with NPTCBC specification for the construction of roads for adoption.

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

Biodiversity Officer: No objection subject to the imposition of conditions and S106 Agreement to secure compensation for the loss of reptile habitat and habitats listed under S42 of the Natural Environment and Rural Communities Act 2006.

Land Contamination Officer: No objection subject to the imposition of conditions.

South Wales Crime Prevention Officer: Raises detailed comments in respect of security lighting, landscaping and planting, site layout and boundary identification.

Parks and Neighbourhood Services: No reply, therefore no observations to make.

Play Officer: no reply, therefore no observations to make.

Education Department: No reply, therefore no observations to make.

Description of Site and its Surroundings:

The site is irregular in shape and steeply sloping upwards from north to south and from east to west and covers an area of approximately 1 hectare. The site incorporates part of the access road which serves the existing sports hall and commercial units located immediately adjacent to the western boundary of the site. The site is flanked to the north east by a service road beyond which are the residential properties known as St John's Terrace. To the east and elevated above the site is the recently completed Pelenna Close, a cul-de-sac of residential properties. The eastern boundary is denoted by a timber fence sited on top of a steep bank, with other boundaries remaining open.

Brief description of proposal:

Outline planning permission including access and layout is sought for 17 dwellings comprising 12 No detached dwellings, 1 No pair of semi-detached dwellings and a terrace of 3 dwellings. Matters of appearance, landscaping and scale are reserved for subsequent approval.

In line with the requirements of outline planning applications, the applicant has submitted scale parameters which are as follows:

	<u>height</u>	<u>width</u>	<u>length</u>
Maximum	12.5m	12m	11m
Minimum	8m	6m	8m

The proposed layout indicates the provision of all dwellings being served by one access point leading off the existing access road serving the sports hall, which would be centrally located within the frontage of the site. The proposed estate road and turning head dissects the site east to west, off which would be a shared drive serving 4 detached properties orientated north to south. Three properties would front the existing access road with the remainder of the dwellings each fronting the proposed estate road.

The layout plan makes provision for pedestrian access to be retained through the site linking the rear of St Johns Terrace to the sports centre. No provision for open space facilities have been included within the proposed layout. Due to the topography of the site extensive retaining works are proposed.

EIA and AA Screening:

The application site exceeds the Schedule 2 threshold for development of this type as outlined within the Environmental Impact Assessment Regulations. As such the application has been screened in accordance with the requirements of Schedule 3 of the Regulations. The findings of the screening report were that the scale and nature of the potential impacts associated with the development both alone and in combination with other developments within the area would not be of a type that would require the carrying out of an Environmental Impact Assessment or the subsequent submission of an Environmental Statement in support of the application.

The proposed development is not located within a zone of influence for any SAC, CSAC or Ramsar sites and as such it is considered that an Appropriate Assessment as set down within the Conservation of Habitats and Species Regulations 2010 is not required.

Material Considerations:

The main issues to be considered in the determination of this application concern the principle of the proposed development at this location having regard to the national planning policy and guidance and adopted development plan policies, as well as the impact upon the character and appearance of the surrounding area; residential amenity of the occupiers of the adjacent properties; highway and pedestrian safety; the effect upon biodiversity, drainage and pollution together with other issues raised by consultees.

Policy Context:

National Planning Policy:

Planning Policy Wales (Edition 8, January 2016).

- Technical Advice Note 5: Nature Conservation and Planning (2009)
- Technical Advice Note 6: Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 11: Noise (1997)
- Technical Advice Note 12: Design (2016)
- Technical Advice Note 16: Sport, Recreation and Open Space (2009)
- Technical Advice Note 18: Transport (2007)

Local Planning Policy:

Local Development Plan (LDP)

In accordance with the Planning and Compulsory Purchase Act 2004, the Council prepared the Local Development Plan (2011-2026). The LDP was submitted for independent Examination to the Planning Inspectorate on 30th September 2014 and the Ministers of the Welsh Government appointed independent Inspectors to conduct the Examination to assess the soundness of the Plan. The LDP Examination officially ended on the 2nd December 2015 when the Council received the Inspectors' Report from the Planning Inspectorate. The Report was published and the recommendations contained within were 'binding', meaning that the Council had to accept the changes recommended by the Inspectors.

The Council formally adopted the LDP on 27th January 2016, and therefore the proposal must now be assessed against the following relevant Policies within the LDP: -

Strategic Policies

- Strategic Policy SP 3 Sustainable Communities
- Strategic Policy SP7 Housing Requirement
- Strategic Policy SP14 The Countryside and the Undeveloped Coast
- Strategic Policy SP16 Environmental Protection
- Strategic Policy SP10 Open Space
- Strategic Policy SP17 Minerals
- Strategic Policy SP20 Transport Network
- Strategic Policy SP 15 Biodiversity and Geodiversity

Detailed Policies

- Policy SC1 Settlement Limits
- Policy I1 Infrastructure
- Policy OS1 Open Space Provision
- Policy EN8 Pollution and Land Stability
- Policy M1 Development in Mineral Safeguarding Areas
- Policy TR2 Design and Access of New Development
- Policy BE1 Design

Principle of Development:

The application site lies outside of, albeit adjacent to, the settlement limit of Tonmawr as defined by Policy SC1 of the adopted LDP, and is therefore defined as being within the 'countryside'. Given its countryside location, and in the absence of any agricultural or forestry justification, the proposed residential development is as a matter of fact contrary to Policy SC1 of the adopted LDP.

This is supported by national policy with paragraph 9.2.22 of Planning Policy Wales (PPW) noting that:

'In order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside, away from existing settlements recognised in the development plans or from other areas allocated for development, must be strictly controlled.'

Accordingly, the proposed residential development would represent a departure to the Development Plan, and it is therefore pertinent that Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "*where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise*". Such material considerations are addressed below in respect of the principle of development, followed by an assessment of other impacts.

Material Considerations

The agent has made representations which seek to argue that there are 'Other Material Considerations' which should be weighed against the LDP settlement boundary. In summary, these are as follows: -

- The application in this case was first prepared and submitted in June 2012. For various reasons it was not accepted in that format and a considerable amount of additional information was requested. Because of various delays, including legal issues relating to the owning consortium, it was not until June of last year that we were in a position to submit the application once again, in its revised format. Continuing requests for further information meant that the application was not actually registered until October, and even then we have been asked for additional reptile

surveys and contamination reports. This has meant that we have been overtaken by a change in policy.

- The Council has been fully aware for at least 4 years that this site was owned by a consortium of local people who were intent on developing the site for housing purposes on the basis that it fell within the defined settlement in the UDP. Whilst it is understood that the LDP seeks to draw very tight settlement boundaries, it is most surprising that the circumstances of this site were not fully taken into account, particularly when it is virtually surrounded by built form, when there are no other opportunities for development in Tonmawr, and when the existing sports centre and adjoining business units are now also excluded from the settlement.
- The application proposes a high percentage of affordable houses at a time when there is an acknowledged shortage of such dwellings in the area.
- The latest Joint Housing Land Availability Report for Neath Port Talbot indicates that the Borough has a current supply of housing land sufficient only to meet a 2.5 year supply at current rates of demand. This is, of course, significantly below the provision required by Central Government of a 5 year supply. In such circumstances it is incumbent on any Planning Authority to give serious consideration to granting consent for any proposal that in all other respects complies with policy and where the applicants have made it clear that they are both willing and able to take up the permission and get on with the development.
- A recent permission was granted on a site in Tonna where similar circumstances applied, in other words land that was clearly intended for development had been arbitrarily excluded from the settlement by the LDP.
- They have also submitted many representations and a petition from local residents, businesses and clubs, and state that it is evident to them that the development is wanted in Tonmawr and is supported by the Community Council and the Welsh Government Member for the area.

These matters are considered in turn below.

Previous Unitary Development Plan settlement Boundary

The local Ward Member, Cllr Martin Ellis, has called this application to Committee on the grounds that there has been an overlap in development plans since the application was submitted, noting his opinion that the application would be a sustainable extension to the existing settlement boundary where there is a demand for new housing.

It is noted that an earlier application in 2012 was returned to the applicant, and the current application was submitted 3 years later in June 2015, and was not formally validated until 13th November 2015. As noted above, the LDP Examination officially ended on the 2nd December 2015 when the Council received the Inspectors' Report from the Planning Inspectorate. The Report was published and the recommendations contained within were 'binding', meaning that the Council had to accept the changes recommended by the Inspectors. The Council subsequently adopted the LDP on 27th January 2016.

In response to comments raised by the Applicant in respect of where the LDP settlement limit has been drawn within the LDP, it is noted that in drawing up the LDP, the identification of a Settlement Hierarchy was used to provide a balanced approach to managing growth, directing development to areas reflecting the attributes contained within that community and their ability to accommodate growth. As well as assessing the role and function of settlements, the Council assessed the capacity of land within settlements to accommodate development and also considered the potential opportunities for settlement expansion.

The classification of settlements in the Plan is based on a six-tier hierarchy, with the settlement of Tonmawr identified as a 'small local centre' – such settlements provide more limited potential to accommodate new development.

The independent LDP Inspectors concluded that, subject to a number of recommended changes, the Plan was 'sound' and provides an appropriate basis for the planning of the County Borough up to 2026. With specific regard to the settlement hierarchy and limits, the extract below presents the Inspectors' findings and conclusions:

“Settlement Hierarchy and Limits

The definition of a settlement hierarchy, together with boundaries around each of them determining the limits of development, are essential for the delivery of sustainable communities and, consequently, the protection of the open countryside. The evidence for both is the Settlement Review and Urban Capacity Study, undertaken in 2011, which is described in the Settlement Topic Paper. Following a review of the existing function of each settlement, the relationships between them, and their future role, a six-tier hierarchy was defined. The LDP assigns each settlement to one of the tiers which range from towns at the top through district, large local and small local centres, to villages and dormitory settlements at the bottom. In addition a settlement limit is defined around each, with the exception of dormitory settlements, taking into account the assessed capacity and potential for development.

Through Policy SC 1 this framework directs appropriate levels of development to various categories of settlement in order to contribute towards the objectives of delivering sustainable communities and maximising accessibility to a range of facilities. It will also help to conserve the countryside consistent with OB 15. The addition of a column to Table 3.1 explaining the role and function of the settlements in each tier, together with further explanation in the text, are necessary to clarify the type and scale of development that is likely to be suitable. A new paragraph will explain the approach to be taken in dormitory settlements which have insufficient facilities to be classed as sustainable locations.

Settlement limits were defined following an assessment of each settlement’s capacity to accommodate growth and consideration of a number of factors including: relevant extant planning consents; the location of small candidate sites; physical constraints to development; the functional and visual relationship between land and/or buildings; and the settlement and opportunities for large scale expansion. We are satisfied that the identification and delineation of the settlement limits in the LDP has been undertaken in a logical and consistent manner. Consequently, boundaries have been defined that strike an appropriate balance between the growth requirements of the area and the need to protect the countryside.

The overarching policies adequately reflect the central planks of the LDP strategy. They are clear, appropriate and based on up-to-date, credible and robust evidence.”

It is considered that the adopted Local Development Plan is consistent with national guidance in relation to settlement strategy. Para 4.7.4 of PPW states:-

*“Local planning authorities should assess the extent to which their development plan settlement strategies and new development are consistent with minimising the **need to travel and increasing accessibility by modes other than the private car**. A broad balance between housing and employment opportunities in both urban and rural areas should be promoted to minimise the need for long distance commuting. Local authorities should adopt policies to locate major generators of travel demand such as housing, employment, retailing, leisure and recreation, and community facilities including libraries, schools and hospitals within existing urban areas or in other locations which are, or can be, well served by public transport, or can be reached by walking or cycling.”*

Having regard to the LDP process, it is acknowledged that the initial application was received in June 2015 while the UDP remained the adopted Development Plan for the area. Nevertheless, the application was not accompanied by the required level of information necessary for it to be validated, and while the agent was aware of the impending change in Development Plan, the application was not formally validated until November 2015. The LDP Inspector's report was then published only 2 ½ weeks later, and the Plan adopted 10 ½ weeks after publication, with the application not in a position to be determined in advance of the inspector's report or adoption.

It is also pertinent that the Council was fully aware of the intention to develop this site, not least since the site was put forward as (part of a larger) Candidate Site (AV24) in July 2010 for residential development, but did not progress beyond Stage 3 of the Candidate Site Assessment. At this stage of the assessment, details of the site were sent to a wide range of external consultation bodies and also all relevant internal Departments. Based on the assessment of the responses received, coupled with the fact that the site was deemed to be not compatible with the Development Strategy of the Plan, the site was not considered deliverable or appropriate and accordingly was filtered out with no further assessment undertaken. Subsequently at the Deposit consultation stage, those promoting the site did not object to the site's exclusion from the Plan and consequently the site did not form part of the 'Alternative Site Register'. This prevented the merits of the site being considered fully by the appointed Inspectors.

Accordingly, it is emphasised that the site was robustly assessed in accordance with the Council's Candidate Site Assessment methodology, and the site proposers were on the Council's database and would have been notified at all stages of Plan preparation. Failure to progress the application to validation between July 2010 and November 2015, while regrettable, is not therefore considered to amount to a justification for allowing development of a site which was considered by the LDP to not be suitable for residential development.

Accordingly, while it is acknowledged that the site was formerly part of the UDP settlement boundary, it is considered that the application was submitted/ validated too late in the process to justify any departure from what is now adopted LDP Policy, and that if permission were granted for residential development on this site it would set an undesirable precedent that would seriously undermine the local and national objectives to safeguard the countryside for its own sake.

Housing Need:

PPW (para 9.2.3) emphasises the need for local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing, and para. 6.2 of TAN 1 - Joint Housing Land Availability Studies (2015) - states that "The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement ... the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies".

The appellants submit that the 2014 Joint Housing Land Availability Report for NPT indicates only a 2.5 year supply, which is below the required 5 year supply.

In response to these submissions, it is noted that while the 2014 Joint Housing Land Availability Study (Published in May 2015) identified a shortfall in the 5 year land supply, the council has since adopted its Local Development Plan, which allocates further land to ensure that a supply is made available to provide an additional 7800 new properties over the life time of the plan (until 2026).

The 2016 Joint Housing Land Availability Study (JHLAS) has also recently been agreed by the Planning Inspectorate (end June 2016), and has confirmed that the current land supply figure for Neath Port Talbot is 5.0 years.

It is therefore considered that there is no justification to approve a housing development such as that proposed, which is contrary to the adopted LDP, on the basis of insufficient land supply.

Affordable Housing Need

The applicant states that the application proposes a high percentage of affordable houses at a time when there is an acknowledged shortage of such dwellings in the area. In this respect, it is noted that the development proposes a total of 17 plots, ten of which would be 'self-build', with the remaining seven being "affordable units to be offered to a social housing provider".

Tonmawr lies within the Afan Valley, wherein Policy AH1 of the Local Development Plan does not require any provision of affordable housing, since the Council's viability study informing the LDP found the valley areas did not support the provision of affordable housing.

The submissions indicate that 7 of the 17 units (equating to 41%) would be affordable housing. While it is understood no RSL is involved in the development proposal, such provision could be secured through a section 106 agreement.

While the proposed provision of affordable housing on this site is noted, and is a material consideration, it is nevertheless considered that this does not justify the development of the site which as identified above falls outside of the newly-adopted Local Development Plan settlement limits.

In coming to this conclusion, it is also noted in particular that Policies SC1 and AH2 allow for 'affordable housing exception sites' (of up to 9 units) outside identified settlement limits where all of the following criteria, where relevant, are satisfied:

- 1 Evidence exists in the form of a local housing needs survey (or by reference to alternative housing need data) that there is a genuine demonstrable local need for such accommodation;

2. It is demonstrated that the need for affordable housing cannot be satisfactorily met within existing settlement limits and the development is located adjacent to an existing settlement;
3. The site is solely for affordable housing and there are clear and adequate arrangements to ensure that the benefits of affordable housing will be secured for initial and subsequent occupiers.

The Policy supporting text notes that “exception sites are a means of providing affordable housing in areas where there is an unmet need. Whilst preference will always be to provide housing in sustainable settlements and within defined settlement limits, there may be occasions throughout the Plan period when factors, such as the availability of land, may require affordable housing to be sought outside of settlement limits. In such circumstances, this policy will allow RSLs to provide affordable units in areas where there is an identified need that cannot be satisfied within existing settlements”.

In respect of this site, however, the proposed development both exceeds the number of units, and does not propose the 100% affordable housing necessary to fall within this Policy, nor is it in any event supported by the necessary level of information to justify such development. Accordingly, in addition to the provision of affordable housing not overcoming the ‘in principle’ objection to the development, it also cannot be considered to represent an acceptable ‘exception site’ under Policy AH2.

Precedent on other site

The agent has noted that “a recent permission was granted on a site in Tonna where similar circumstances applied, in other words land that was clearly intended for development had been arbitrarily excluded from the settlement by the LDP”.

This comment is understood to relate to land at Henfaes Road (P2015/0363) which was granted planning permission for 3 dwellings in December 2015. This site had previously formed part of a larger site with planning permission, and had been included in the settlement boundary of the UDP.

Furthermore the LDP had not yet been adopted at the time of determination of that application and it therefore fell to be considered against policies contained within the UDP which was the adopted development plan at that time. Consideration was also given to the

emerging policies contained within the LDP as they were considered to be material considerations given that the Council had received the binding Inspector's report a few weeks before determination. A decision was made that it would be unreasonable to assess the principle of development at that site based on emerging Local Development Plan Policies alone.

This site, however, is considered to be materially different insofar as it has no planning permission, had been ruled out as a housing site in the LDP candidate site assessment process and the settlement boundaries drawn accordingly, and, while validated in advance of adoption of the LDP, it is considered that for the reasons given above the proposal does not accord with the Local Development Plan. In this regard, the site referred to above is not considered to represent a precedent which would justify approval of development at this site.

Support by the Local Community

The applicant states that it is "evident to them that the development is wanted in Tonmawr and is supported by the Community Council and the Welsh Government Member for the area".

It is noted that the local Ward Member is supportive, and that Bethan Jenkins AM and Peter Black (a previous AM) have written in support of the application.

The applicant has also submitted letters "from nearly all the local businesses within the village showing their support" and received letters of support from residents overlooking the site in Johns Terrace and Pelenna Close.

To date, the Council has received 22 letters of support (summarised above) from local businesses and residents, and a petition with 245 signatories has also been submitted offering support for the proposed development.

These submissions refer, amongst other things, to the potential positive impacts of the development on the community / village and other local facilities / Clubs, in terms of supporting the sustainability of the village; providing the opportunity for young families to return to the village and reinforcing the already strong community spirit.

In response, however, while the submitted representations, and those from the local councillor and Community Council, indicates a strong degree of support from the local Community for this development, the positive community impacts referred to are not considered to outweigh the clear policy objections to development of this site for the reasons expanded upon above, and thus the harm caused by its failure to accord with the Local Development Plan.

Other Matters – Community Benefit

The applicant has submitted a letter which states that “Pelenna Property Partnership Ltd are willing to discuss with NPTCBC that in addition to the provision of an element of affordable housing within the development, a scheme whereby an amount from the sale of each plot at the site, as agreed with NPTCBC, would be contributed into a fund held by others which would be available for not for profit groups/clubs in the locality to be able to on application obtain funding to help with their running costs/ equipment etc. We, the Directors, are in agreement that this can be placed as a condition on the development and we will enter into a unilateral agreement if required”

It is noted, however, that such ‘community benefits’ (even were they submitted formally by a Unilateral agreement) cannot be considered to amount to a material planning consideration that could override the objections to the development above on valid planning grounds.

Visual Appearance of Site

It has also been suggested that the visual appearance of the site might justify development, with residents stating that the appearance will be improved and also referring to the improvements to the right of way through the site, which links the upper and lower parts of the village.

In response, however, it is considered that the site, while not necessarily attractive, does not adversely affect visual amenity to such a degree that this would warrant approval of this application. Moreover, if the condition of the site were to become worse, there are other mechanisms available to address this issue including enforcement action under both the Planning and Environmental Health legislation to secure improvements.

Improvements to the right of way through the site, while welcomed, are also not considered to justify development contrary to the Development Plan.

Principle of Development Conclusion

For the reasons given above, it is therefore concluded that the development of this site would amount to unjustified and unsustainable new development in the countryside, for which there is no agricultural or other justification. In addition, there are no material considerations of sufficient weight to override the harm caused by reason of its failure to meet adopted LDP Policy.

Other matters in respect of the development are addressed in turn below: -

Housing Density

Policy BE1 (8a) of the adopted Local Development Plan states that '*normally a minimum of 35 dwellings per hectare in the Coastal Strategy Area or a minimum of 30 per hectare in the Valleys Strategy Area*' will be required.

This site falls within the Valleys Strategy Area where a minimum of 30 dwellings per hectare in the Valleys Strategy Area' will be required.

The site is approximately one hectare in size and it is proposed to accommodate 17 dwellings. It is acknowledged that the site is steeply sloping which together with the relatively spacious layout affects the ability to achieve the required density under Policy BE1. The fact that the site can only accommodate a low density of development is therefore considered to add weight to the 'in principle' objections that this site is not suitable to accommodate new residential development.

Mineral Safeguarding:

It is also noted that the site is located within a Mineral safeguarding area under Policy M1 of the adopted LDP.

Policy M1 looks to safeguard mineral resources as they are finite and any development will need to meet criteria which ensure they are not sterilised or their extraction hindered.

Notwithstanding the above it is not considered that the development due to its scale and location will have a significant impact on the working of the mineral. Moreover, given the site's close proximity to the settlement limits, it is very unlikely that any mineral extraction would be acceptable in this location. Accordingly, there is no objection to the principle of development on mineral safeguarding / Policy M1 grounds.

Visual Amenity:

With regards to the character of the existing area, Tonmawr is characterised by traditional terraced properties and a number of newly-built properties. The application site stands at a significantly lower level than the existing frontage development on St Johns Terrace.

Whilst it is acknowledged that PPW does accept that extensions to existing small groups of dwellings in the countryside may be acceptable, this is dependent on the character of the surroundings and the number of such groups in the area. Indeed, national guidance at paragraph 5.1.1 of PPW recognises the importance of the natural heritage of Wales both for its own sake and for the health and the social and economic wellbeing of individuals and communities. In addition PPW states at paragraph 4.6.4:-

“The countryside is a dynamic and multi-purpose resource. In line with sustainability principles, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological and agricultural value and for its landscape and natural resources, balancing the need to conserve these attributes against the economic, social and recreational needs of local communities and visitors. Central to this is ensuring that the countryside is resilient to the impacts of climate change and plays a role in reducing the causes of climate change through the protection of carbon sinks and as a sustainable energy source.”

As already noted PPW accepts that new house building in the countryside should be strictly controlled and paragraph 9.3.1 requires that new housing should be well integrated with and connected to the existing pattern of settlements, with the expansion of towns and villages avoiding the creation of ribbon development, the coalescence of settlements or a fragmented development pattern.

It is considered that the proposal will not follow the existing pattern of development and would represent a significant intrusion into the

landscape and serve to urbanise the area to the detriment of the existing rural character.

It is therefore considered that the proposal would give rise to a sporadic form of development to the detriment of the character and appearance of the rural area, contrary to National and Local Development Plan objectives to restrict new residential development outside designated settlement areas.

Residential Amenity:

In terms of the impact upon nearby / neighbouring properties, the accompanying information details that the proposed dwelling on Plot 5 would be sited some 10 metres below and a minimum distance of 5 metres from the nearest property No 8 Pelenna Close. The submitted plans also indicate that the proposed units will be located in excess of 21 metres from the rear elevations of the existing properties positioned in St Johns Terrace. The separation distance ensures that the proposed properties would not unacceptably overshadow or have any overbearing impact on the existing houses.

In terms of overlooking, the required separation distance of 21 metres can be achieved to ensure the future privacy of existing and future occupiers is maintained.

Adequate private amenity space to serve the development is proposed.

Having regard to the above, it is concluded that the submitted layout demonstrates that there would be no unacceptable impact on residential amenity of the occupiers of neighbouring properties.

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

The Head of Engineering and Transport (Highways) has considered the increase in vehicular traffic associated with 17 dwellings, and has concluded that the impact of the proposed development can be accommodated within the existing and proposed highway network and that the proposed development will not significantly worsen the free flow of traffic to warrant refusal of the application.

As a result there is no objection to this development on highway and pedestrian safety grounds subject to the imposition of a number of conditions which include the provision of improvements to the existing

access road serving the Sports Hall, submission of a Construction Method Statement together with a series of conditions in respect of detailed calculations of retaining structures, future maintenance of the proposed internal roads, and highway drainage.

Pollution:

The Land Contamination Officer and NRW have raised no objections to the proposal having regard to the submitted desk top study subject to the imposition of conditions in respect of a remediation strategy, submission of verification report, long term monitoring and maintenance plan, and unexpected contamination.

Drainage:

The applicant has stated that they wish to connect to the existing drainage system and have indicated as such in their application form and plans. Welsh Water has confirmed that they have no objection to the proposed development subject to the imposition of a condition that secures the submission of a scheme to secure the provision of adequate disposal of foul, surface water and land drainage from the site.

The Authority's Drainage Engineer raised no objection to the proposal subject to conditions in respect of surface water drainage works.

Ecology:

Technical Advice Note 5: Nature Conservation and Planning states that:

Biodiversity, conservation and enhancement is an integral part of planning for sustainable development. The planning system has an important part to play in nature conservation. The use and development of land can pose threats to the conservation of natural features and wildlife. Past changes have contributed to the loss of integrity of habitat networks through land-take, fragmentation, severance, disturbance, hydrological changes and adverse impacts.

But development can also present significant opportunities to enhance wildlife habitats and enjoyment and understanding of the natural heritage. The planning system needs to be watchful of the cumulative effects of a series of small, perhaps occasional, apparently insignificant losses from the natural world, which can combine to seriously deplete

the natural heritage, including essential hydrological and ecological system; small scale opportunities for habitat creation and enhancement can be significant and can build into major contributions over time.

In addition it states that the development control process is a critical stage in delivering the protection and enhancement of nature conservation by PPW. The following can help to achieve these objectives:

- Adopting the five point approach to decision-making- information, avoidance, mitigation, compensation and new benefits;
- Ensuring that planning applications are submitted with adequate information, using early negotiation, checklists, requiring ecological surveys and appropriate consultation;
- Securing necessary measures to protect, enhance, mitigate and compensate through planning conditions and obligations;
- Carrying out effective enforcement;
- Identifying ways to build nature conservation into the design of the development.

TAN 5 confirms that through the use of conditions, the delivery of a number of positive benefits to biodiversity beyond those of simply avoiding adverse effects as possible, including:

- The submission and agreement of a landscape scheme so that greater attention can be given to issues such as species composition;
- The maintenance of landscape planting for a five year period, or longer, where the need for this can be justified;
- Habitat enhancement;
- The restoration and aftercare of a site where a positive approach to restoration and after-use required by conditions can produce significant biodiversity benefits in terms of habitat creation and enhancement.

The Authority's Biodiversity Unit has considered the submitted Reptile Survey and Phase 1 Habitat Survey and advised that a S106 agreement is required to mitigate the loss of reptile habitat through the creation of a 40 sq m scrape and 6 hibernaculum sites. This compensation would be subject to a 5 year management plan. They also recommend that conditions are imposed on any consent requiring

artificial nesting sites for birds and the translocation of reptiles prior to development.

Having regard to the above, it is considered that the ecological impact of the development has been adequately considered within the submitted information. Through the imposition of conditions, the impacts of the development both during and post construction and ongoing future management and monitoring can be mitigated so that any adverse impacts can be dealt with.

Section 106 Planning Obligations:

The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010 in England and Wales. They introduced limitations on the use of planning obligations (Reg. 122 refers). As of 6th April 2010, a planning obligation may only legally constitute a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In this case, the proposal relates to an outline planning application for the development of the site for 17 residential units. Although this report outlines the justification for the refusal of the development, it is still necessary to examine what planning obligations would be required if the application were acceptable in all other respects. Having considered the nature and scale of the development, the local circumstances and needs arising from the development, and what it is reasonable to expect the developer to provide in light of the relevant national and local planning policies, the planning obligations referred to below are considered necessary.

The required contributions would include:-

Public Open Space (POS)

Policy OS1 of the LDP states that where there is a quantitative deficiency in outdoor sport, children's play, informal space or allotments, provision will be sought, including the requirement for

maintenance, in conjunction with all new residential developments of 3 or more dwellings.

Where it is impractical to provide open space and/or recreational facilities on site or where existing open space provision is deficient in quality in the immediate locality, the Council may be willing to accept alternative provision i.e. off-site contribution payments.

Having regard to the 'Open Space Assessment 2013, produced in support of the adopted Local Development Plan, it is noted that there are existing ward shortfalls in children's play, allotments and non-pitch sport. There are 2 children's play areas on Tonmawr Road, the one in Upper Tonmawr is within 400m of the site and meets accessibility standards, the one in Dan y Coed is over 400m metres from the site. In respect of allotments there is no formal allotment provision in the Pelenna ward and very limited provision in the spatial area. However there is a small community type garden in the open space near Dan y Coed. With regards to non-pitch sport, the only provision in the ward is a bowling green in Pontrhydyfen, however this site lies beyond the appropriate accessibility standards.

Accordingly, the existing deficiencies would be exacerbated by the increase in population arising from the proposed development, and there would be a need for the development to contribute towards addressing such deficiency.

Had a recommendation been made that planning permission should be granted, the Heads of Terms for a section 106 legal agreement would have included the requirement for a contribution of £32,922 towards this shortfall (£14,598.75 towards the provision of children's play in Tonmawr; £805.42 towards either allotment provision in the Afan Valley or improvement/enlargement of the community garden in Tonmawr; £17,518.50 has been calculated for non-pitch provision).

Subject to this Section 106 agreement, the development would have accorded with Policy OS1 of the adopted LDP.

Comments on Representations (previously circulated on amendment sheet to 12th July Committee)

Councillor Martin Ellis

Many of the issues raised by Councillor Martin Ellis have already been considered elsewhere in this report, but the following additional points are made in response: -

- The LDP does allow for exceptions to development outside of or adjacent to settlement boundaries, but this site and proposed development do not meet the criteria for such exceptions
- Whether or not the site has a countryside appearance, it is as a matter of fact outside the LDP settlement limits
- There are no conflicting development plans. The LDP is the development plan and the UDP has now been superseded.
- It is suggested that there is flexibility within the LDP to supporting smaller valley communities to make them resilient and sustainable to halt decline and depopulation. The LDP recognises (at 2.5.32) that the valley communities have a long tradition of strong cultural heritage and community identity, and that some of the valley areas have faced more challenging times.

In response, it notes that the Valleys need to become more economically resilient and provide new opportunities for growth, investment and job/wealth creation. Accordingly the LDP strategy seeks to reinvigorate the valleys principally through the identification of two growth areas, namely Pontardawe and the Upper Neath Valley. It further states that whilst the majority of large housing allocations are focussed around the growth points, in remaining areas growth will be delivered on smaller sites within the identified settlement limits.

It further states (at 2.5.53) that a flexible approach will be taken with appropriate employment and 'live-work' units being acceptable outside of, but immediately adjacent to, settlement limits.

Having regard to the above, this report makes it clear how the settlement limits have been drawn and agreed by the LDP Inspectors, and the proposed development fails to accord with the Policies or with the Strategy of the LDP for the reasons expanded upon in the Officers report.

Applicant's Additional Submissions on Report

It is considered that the above issues have largely been addressed in the Officer's report to Committee or the response to Councillor Ellis above, but the following additional points are made in response: -

- The LDP Policies allow for flexibility in development outside of settlement boundaries to reflect advice in PPW, and as noted above this site would not meet such criterion nor, for the reasons in the report, would there be material considerations of sufficient weight to override the policy objection to the development
- In policy terms the site is 'countryside', being located outside of the village settlement boundaries.
- The Tonmawr 2000 project is not considered to have any material bearing on determination of this application
- The Officers report has already noted the different circumstances between this and the Henfaes Road application.

Conclusion:

The decision to recommend refusal of 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.

Having regard to Policies SP3, SP7, SP10, SP14, SP15, SP16, SP17, SC1, I1, OS1, EN6, M1, TR2 and BE1 of the adopted Neath Port Talbot Local Development Plan; and national planning policy and guidance contained in Planning Policy Wales and in TANs 5, 6, 12, 15 and 16 it is considered that the proposal represents an unjustifiable and unsustainable form of residential development located outside the defined settlement, which would have a detrimental impact upon the character and appearance of the surrounding area for which there are no material considerations which outweigh the harm caused.

RECOMMENDATION: Refuse for the following reason

- (1) By reason of the site's edge of settlement location and the absence of an agricultural/forestry/rural enterprise need. The proposal represents an unsustainable and unjustified form of residential development in the countryside that would detract from the character and appearance of the surrounding area. The development is therefore contrary to the countryside protection objectives of national policy and guidance as contained in Planning Policy Wales, TAN 6- Planning for Sustainable Rural Communities and TAN12- Design, in addition to failing to comply with Policies SP14 and SC1 of the Local Development Plan.