

## **SECTION A – MATTERS FOR DECISION**

### **Planning Applications Recommended For Approval**

<b><u>APPLICATION NO:</u> P2019/5574</b>	<b><u>DATE:</u> 8/11/2019</b>
<b>PROPOSAL:</b>	Application under S106A of the Town and Country Planning Act (TCPA) 1990 (as amended) to Modify the Section 106 agreement including but not limited to the delivery of strategic infrastructure including southern access road and strategic link road, schools and community facilities, affordable housing and M4 junction improvements
<b>LOCATION:</b>	Coed Darcy Urban Village Llandarcy Neath
<b>APPLICANT:</b>	St Modwen
<b>TYPE:</b>	S106 Modification
<b>WARD:</b>	Coedffranc West

### **SITE AND CONTEXT**

As members will be aware outline planning permission was granted under planning application reference P2005/0393 in August 2008, subject to conditions and a S106 agreement, for the development of an Urban Village comprising approx. 4,000 dwellings; 41,200sqm of business use; up to 3,000sqm of retail (gross) and 8,000sqm of other commercial, education, community facilities, highways, drainage, services, infrastructure, car parking and landscaping. The masterplan is shown at figure 1 below.

Phase 1A and B of the development was granted reserved matters consent in 2012 and includes just under 300 houses. This phase is now complete.





Figure 1 : Approved Masterplan

## DESCRIPTION OF APPLICATION

The S106 agreement covered a wide range of topics, including remediation obligations, highways and transport improvements and infrastructure, the provision of on site education, provision of affordable housing and older person's accommodation, on site health facilities, open space sports and playing fields provision, provision of a community building, and controls and procedures in relation to urban design and habitat protection.

This agreement was signed in February 2008, and is legally binding over the lifetime of the development of this new urban village. It is a complex and wide ranging agreement, which seeks to secure the

delivery of strategic infrastructure, together with essential community facilities which will support and complement the urban village, and affordable housing which will ensure that mixed communities are delivered across the site. These requirements will be secured on a phased basis across the site through the use of key triggers which are linked with the progress of residential development on the site.

Since this agreement was signed in 2008, the progress of the initial phases of development were delayed due to a number of external factors, the main factor being the wider economic downturn faced by the area, and the country as a whole. As such the first phase of residential development, subject to this outline planning permission was not commenced until 4 years later in 2012.

Members may be aware that a previous application was submitted in 2014 for a variation to the S106 (P2014/0739). This secured a positive resolution from the Planning Committee in February 2015, however that variation was not progressed any further due to a continuing decline in the economy and concerns from the developer regarding viability. Ongoing discussions have taken place with the site owners and relevant consultees to ensure that the site continues to develop in a form that maintains the vision for a sustainable urban village model, whilst also securing all supporting infrastructure. These discussions have reflected the requirements of the existing S106, but also the fact that the needs for this site have changed since 2008 and will continue to change, hence the need for the inclusion of a review structure over the lifetime of this development.

Both parties have discussed the experiences from the first phase of the scheme in terms of development impact and financial performance. An assessment of the enabling works that have been required to deliver this first phase suggests that some of the obligations required re-examination in order to deliver and support additional phases of development in a timely manner.

The main purpose of this report is to assess the robustness of the legal agreement in supporting further residential development in the north of the site, where the initial phase of residential development has commenced and will continue, and its ability to allow for the commencement of a second front of development in the southern area. The acceleration of development within the Southern area will not only increase the delivery rate of new homes at Coed Darcy (as required under the adopted LDP) but will also increase income to facilitate the delivery of key infrastructure and community requirements.

## NEGOTIATIONS

Negotiations on this development have been undertaken over the last 8 years with varying degrees of success. The latest round of discussion followed the submission by the developer of a Viability Assessment to the District Valuer. This culminated in the formal submission of this application in November 2019. Further discussions with the developer and statutory consultees have taken place since that time, and the proposal amended to reflect the evolving and competing priorities of those parties. The current proposal seeks to deliver a mix of residential and commercial uses with complementary infrastructure in accordance with the aspirations of the LDP.

## PLANNING HISTORY

The application site has the following relevant planning history:

P2005/0393 – Outline application for an urban village comprising approx. 4,000 dwellings, 41,200sqm of B1 Business Uses; up to 3,800 sqm of retail (gross) and 8,000 sqm of other commercial, education, community facilities, highways, drainage services, infrastructure, car parking and landscaping – Approved, subject to a s106 on 8<sup>th</sup> February 2008.

P2011/0880 – 302 residential dwellings and associated infrastructure and landscaping (Reserved matters following outline planning permission granted on the 8/2/08) – Approved, subject to a S106 on 30<sup>th</sup> May 2012.

The site has a large number of planning applications, however, the applications referred to above are the main permissions that are pertinent to the consideration of this application.

## CONSULTATIONS

The Planning Department has met and discussed the proposals with relevant internal consultees to discuss the principles proposed by the suggested changes to the clauses within the S106 provided. A consultation in writing has also been undertaken.

**Head of Engineering and Transport, Highway Section – No Objection.**

**Education Department – No Objection.**

**Health Board – No Objection.**

**SWTRA – No Objection**

**Coedffranc Town Council – No Objection**

## REPRESENTATIONS

A site notice was displayed on the 15<sup>th</sup> November 2019 and again on the 22<sup>nd</sup> May 2020.

The application was also advertised in the press on 15<sup>th</sup> November 2019.

In response, to date 2 no. representations have been received, with the issues raised summarised as follows:

- Concerns over the lack of progress since the site was initially commenced, and concerns that this is putting potential future residents off moving in, and delaying provision of facilities.
- Concerns over the proposed changes to the Remediation Action Plan (RAP) works, and the impact of these changes on third party land.

## REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

### National Planning Policy:

[Planning Policy Wales](#) (Edition 10) was extensively revised and restructured at the end of 2018 to take into account the themes and approaches set out in the Well-being of Future Generations (Wales) Act 2015, and to deliver the vision for Wales that is set out therein.

PPW10 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking

approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

These overarching principles are paramount in the need to ensure both physical infrastructure and community facilities, together with a broad community to create and establish placemaking at the centre of this development.

### Local Planning Policies

The Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

#### Strategic Policies:

- **Policy SP1** Climate Change
- **Policy SP2** Health
- **Policy SP3** Sustainable Communities
- **Policy SP4** Infrastructure
- **Policy SP5** Development in the Coastal Corridor Strategy Area
- **Policy SP7** Housing Requirement
- **Policy SP8** Affordable Housing
- **Policy SP10** Open Space
- **Policy SP11** Employment Growth
- **Policy SP12** Retail
- **Policy SP15** Biodiversity and Geodiversity
- **Policy SP16** Environmental Protection
- **Policy SP18** Renewable and Low Carbon Energy
- **Policy SP19** Waste Management
- **Policy SP20** Transport Network
- **Policy SP21** Built Environment and Historic Heritage

#### Topic Based Policies:

- **Policy SC1** Settlement Limits
- **Policy I1** Infrastructure Requirements
- **Policy SRA1** Coed Darcy Strategic Regeneration Area
- **Policy H1** Housing Sites

- **Policy AH1** Affordable Housing
- **Policy OS1** Open Space Provision
- **Policy OS2** Protection of Existing Open Space
- **Policy EC1** Employment Allocations
- **Policy EC6** Live-work Units
- **Policy TO4** Walking and Cycling Routes
- **Policy EN6** Important Biodiversity and Geodiversity Sites
- **Policy EN7** Important Natural Features
- **Policy EN8** Pollution and Land Stability
- **Policy RE2** Renewable and Low Carbon Energy in New Development
- **Policy W3** Waste Management in New Development
- **Policy TR1** Transport Proposals
- **Policy TR2** Design and Access of New Development
- **Policy BE1** Design

The following SPG is of relevance to this application:

- [Planning Obligations](#) (October 2016)
- [Parking Standards](#) (October 2016)
- [Affordable Housing](#) (October 2016)
- [Open Space & Greenspace](#) (July 2017)
- [Design](#) (July 2017)
- [Biodiversity and Geodiversity](#) (May 2018)

### PROPOSED AMENDMENTS TO SECTION 106

The following section sets out the key requirements to be secured for this site in addition to the recommended changes to the existing S106 requirements. It should be noted that up to the signing of any new S106 agreement, all consultees will continue to have an input into these changes.

#### **Phasing of Works to Junction 43 of the M4 Motorway (Schedule 3, Part 1, 1.1 to 1.5)**

This section 106 agreement requires a series of improvements to Junction 43 of the M4 (and the road connecting the scheme to the Junction which is known as the Northern Access Road or NAR). Some of these works have now been completed and a revision to the remainder was proposed to update the phasing of the proposed improvements, and the development levels (the number of homes) they will be connected to.

At submission of this application a Technical Note was prepared on behalf of the applicant which captures the main points from discussions with the Council and with SWTRA (the South Wales Trunk Road Agency). Following further discussion this note has been updated and now forms a final report to inform the phasing strategy for the motorway junction improvements. This report is entitled 'Coed Darcy – M4 Junction 43 Improvements: Updated Phasing Strategy, September 2019, reference 5014243/175/TN/001, rev 1.1).

Further to these reports, further concerns have been raised in relation to the inter-relationship of the J43 works and the local highway network, as the two are controlled by two separate bodies, one being SWTRA and the other being Neath Port Talbot Council. In response the applicant has submitted a further 'Coed Darcy – Local Highway Network Operational Assessment Report' (3<sup>rd</sup> March 2020).

Whilst St. Modwen and its technical team remain of the view that the information provided robustly demonstrates the re-phasing of the works to Junction 43, it is the Council's contention that additional survey work is required but recognise that this is not possible at the current time because of the Covid-19 pandemic.

Therefore, following discussions with SWTRA and the applicant it has been agreed that a new Traffic Impact Assessment (TIA) will be undertaken in advance of the occupation of the 800<sup>th</sup> house at Coed Darcy, and this TIA will determine any future thresholds for improvements to Junction 43, based on the evidence contained in the new TIA. We are content that the junction and surrounding local highway network as currently designed has sufficient capacity to accommodate the vehicular movements associated with 800 houses. Moreover, the originally approved S106 allowed for the construction of 800 houses to be constructed without requiring any enhancements to the highway network outside the site.

As a consequence, it is proposed that a new obligation is included in the amended S106 agreement requiring the submission of a new TIA. The following obligation is proposed:

***No more than 800 houses shall be occupied until a full Traffic Impact Assessment (TIA) including an assessment of J43 of the M4 and the local highway network is undertaken (scope of which to be agreed with WG and LHA). The TIA shall inform phasing works to J43 and any other off site highway improvements, including active travel connectivity and legibility.***



***Permanent traffic counters are to be installed at the site access in approved locations, prior to the occupation of any further dwellings. These shall be retained and operational to inform real time trip rates into and out of the site, the data from which shall be provided to the Authority every 6 months, and can be used to inform the evidence base of the updated TIA. All works or measures identified in the approved TIA shall be implemented in accordance with timescales set out therein.***

It should be reiterated that the above limit of 800 houses is limited by the improvements to Junction 43 undertaken to date and therefore there will be no obligation on the applicant to carry out any further works to Junction 43 until the TIA is carried out and any updated phasing to the works is agreed. However, further key pieces of infrastructure would have also been delivered in that time, the Southern Access Road and Strategic Highway Link, plus a secondary access to the north, via new highway infrastructure connecting the site to the existing Llan Coed network. These are discussed in more detail below.

### **The Southern Access Road, Strategic Highway Link and associated matters (Schedule 3, Part 1, 1.6)**

A revised trigger for the delivery of the “Southern Access Road” (SAR) is proposed. At the moment this is to be completed by the occupation of the 301<sup>st</sup> dwelling. The proposal is to link completion of the SAR to a date and occupation trigger (with a “whichever is earlier” starting point).

Based on an achievable but ambitious construction programme, the objective is to construct and open the SAR by **30<sup>th</sup> June 2024 or by the occupation of 600 dwellings in total across the site whichever is the earlier**. Work is already well advanced on the design of the scheme, and discussions on an Approval in Principle are ongoing with the Head of Engineering and Transport to ensure it is to adoptable standards.

The timing of the completion of the Strategic Highway Link (or SHL) is currently also proposed for completion by the 301<sup>st</sup> dwelling. This road will connect the northern and southern parts of the site, and provides a key strategic link, that will provide sustainable transport options including cycling and public transport connectivity.

Its delivery is proposed to closely follow completion of the SAR, **by September 2024 or before the occupation of the 650<sup>th</sup> dwelling whichever is the earlier** (although the s106 will allow flexibility for the LPA to agree an alternative timescale if the developer supports such a request with sufficient evidence of highway capacity). This date will also be **within one year of the opening of the primary school**. Education provision is discussed in more detail later in this report.

The delivery of these two important pieces of infrastructure are key to the integration of this site with the wider community and transport network, ensuring the provision of sustainable transport links.

### **Primary School – Darcy Business Park Link**

The Council has requested that to mitigate the changes to the delivery of the SAR and SHL, a secondary access into the site should be provided from Darcy Business Park into Coed Darcy, via Road 3 (which will provide access to the primary school from Road 1).



Road 3 is shown on the plan in green and will link the main road through the site, to the site of the new primary school and the Llan Coed Estate, providing a secondary access, and loop to create additional internal connectivity and vehicular capacity.

This will provide a secondary access within Coed Darcy, and will be required to be constructed and open by the **occupation of 400 dwellings or the occupation of the first primary school (with the trigger being whichever comes first)**.

### **The Northern Link (Schedule 3 Part 1, 1.7)**

The original agreement and outline planning permission for the scheme make provision for a road connecting the central parts of the development to the area to the north of the railway line. Concerns have been expressed by the developer with regard to the deliverability of such a proposal given that it crosses a railway line. They have indicated that there may be scope to replace this vehicular crossing with a pedestrian crossing and secure vehicular access to the site

north of the railway line from the B4290/existing highway (Pen-Yr-Heol). However, no detailed designs have been submitted nor has the impact upon the local highway network been assessed nor submitted for consideration as yet.

At this stage all that is proposed is to make provision for the alternative (or a mechanism for its agreement) as this can only be sanctioned if the Council confirms acceptability based on an assessment of impact and capacity. It also has the potential to isolate that part of the site from the community facilities, such as for example the schools and village centre. As such it is key that any change retains a pedestrian/cycle link as a minimum.

There is broad agreement that a further vehicular connection from this northern area to Crymlyn Road (known as the Crymlyn Road link) is no longer required. An existing bridleway already provides access for pedestrians and cyclists). As a minimum improvements to the bridleway and linkages to the wider site must be provided as part of any development within this area of the site. Which could include lighting, and further access points into the Coed Darcy site.

### **To phase and/or amend the provision of the “Transport Subsidy Sum” (Schedule 3, Part 1, 2.1 as amended)**

The revisions to expected delivery rates of dwellings proposed by the applicant, and the phasing/location of these dwellings trigger the need for changes to the staging of the Transport Subsidy. This subsidy will be used to fund public transport to and from the site. The total figure will remain as approved, **£1,430,000** and will be paid in 2 instalments, the first 50% prior to the occupation of any further dwellings on the site, and the remainder (subject to inflation) on the 1<sup>st</sup> April 2023.

### **Education Provisions (Schedule 3, Part 2 and Definitions)**

The existing S106 agreement sets out the delivery of the education facilities, and the locations for these are generally set out in the approved masterplan for the site.

The primary schools are all two form entry with nursery provision, and the S106 sets out the requirement for these to be of a specification and standard as if these were being delivered by the Local Authority, including the relevant open space, playing fields and yards, and as follows: -

- 1<sup>st</sup> Primary School – 400 Residential Units. Village Centre.

- 2<sup>nd</sup> Primary School – 1,341 Residential Units. Southern site.
- 3<sup>rd</sup> Primary School – 2,681 Residential units. Northern site
- A 900 capacity secondary school located in the village centre.  
Phase 1 to be provided prior to occupation of 600 units.  
Phase 2 prior to occupation of 2,001 units.

The delivery of education at both primary and secondary levels has evolved since the section 106 agreement was originally signed. The Council and the applicant are considering modern forms of provision which may see different types or sizes of primary school and revised triggers for the provision of secondary education for children living at Coed Darcy.

The current proposal, which differs to the obligations within the Section 106 agreement, is now broadly agreed with the Council's education and planning teams and is summarised below:

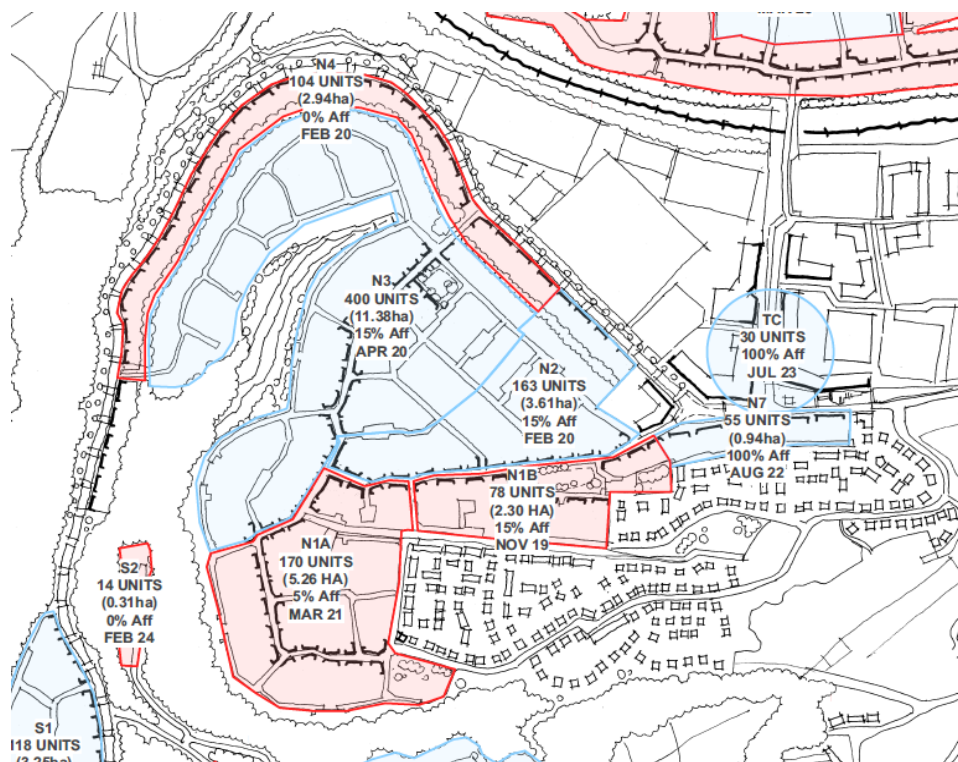
- a) The first 2 form entry primary school will be built and ready for use by **September 2023 or by the occupation of 740 homes** across the site (with the trigger being whichever comes first).
- b) The trigger for the second 2 form entry primary school (which will be constructed in the southern development area) is the completion of **1,500 dwellings** across the site.
- c) There is no longer a requirement for a third primary school on the site based on expected household projections. This will remove the northern site facility, however this is within walking distance to the first primary school, hence the need as referred to earlier for a pedestrian link over the railway line. The primary school proposed on the southern part of the site will serve that catchment, providing sufficient capacity across the site.
- d) The secondary school will need to accommodate about 600 pupils and will be developed as one project. The triggers for opening are **September 2027 or by the occupation of 1,700 homes whichever is the earlier.**

## Affordable Housing (Schedule 3, Part 3)

Affordable housing provision is currently set at 20% of the housing developed on the site, with the ability to vary the amounts to be provided as part of each phase. The viability work completed for the scheme shows that this cannot be delivered and a reduction is proposed.

It is understood that the basic conclusion from the District Valuer (DVS) is that the scheme is not viable with the affordable housing provisions currently included in the Section 106 agreement and this application therefore seeks to **modify the amount of on-site affordable housing provision from 20% to 15% and change the consideration from 42% of Market Value to 50%**. The change to the market values has been discussed at length with the Registered Social Landlords who are operational within Neath Port Talbot and they are comfortable with this amendment for this scheme.

Further to discussions with officers, a phasing plan (reference 8243Sk1016 rev C dated 14<sup>th</sup> October 2019) has been prepared which shows how the different phases or parcels can combine to deliver 15% affordable housing provision across the whole site. An extract of this is enclosed below.



There will be a need to revise phasing to ensure that there is no under provision of affordable housing across the site as a whole. This is key

to achieving a well-balanced community moving forward, and achieving the placemaking agenda within Planning Policy Wales.

Having regard to the above, while the current LDP seeks to achieve 25% Affordable Housing for developments in the Coastal Corridor (compared to 20% at the time of this approval in 2005), it also allows for flexibility in cases where such provision would not be financially viable. Accordingly, as part of the overall package of amendments contained within this report, provision of 15% affordable housing is considered to be acceptable.

### **Temporary and Permanent Health Care Facilities on site (Schedule 3, Part 4)**

The original S106 agreement requires the developer to provide:

- Temporary healthcare facility at 101 Residential Units; and a
- Primary healthcare facility by house occupation 451.

The temporary provision was amended/removed under a subsequently proposed variation.

In discussion with a representative of the Health Board it has been confirmed that a provision still needs to be made on-site for a permanent health care provision. As always envisaged, this is to be delivered as part of the village centre uses (and requests that this is now shown on the updated masterplan have been made). A revision to this trigger is proposed taking its delivery to 2,000 homes.

The new provision would state that:

***A GP surgery be constructed on site at the developers cost, designed to comply with the associated Healthcare guidance within the village centre, prior to the first occupation of the 2,000<sup>th</sup> house.***

### **Local Shop Facilities (Schedule 3, Part 7 (5), 1.2)**

Under the terms of the agreement a local shop should be provided almost immediately, although to date no such shop has been delivered on site. The Council is keen that this obligation is retained and a shop is provided either as part of, or in conjunction with, the next phase of development, especially given that there is already space available on site (which was built as part of phase 1) to accommodate such a use.

To date this accommodation lies vacant and the applicant has advised that they are currently in the process of securing control over this building as it was/is controlled by the housebuilder who was formerly operational on the site. Ownership is currently in the process of being transferred from Persimmon and St. Modwen is looking to start marketing in the next couple of months.

### **Community Building (Schedule 3, Part 6)**

The existing section 106 agreement requires provision of a community building in the main village centre by the occupation of the 451<sup>st</sup> house.

Having regard to revisions in the way services are delivered and managed, and to provide better integration between existing and new communities, it is considered that a financial contribution for the upgrading of an existing nearby facility should now be made instead. Therefore it is proposed to amend this obligation to allow for a financial contribution of **£500,000** for improvements to or towards the replacement of the existing Llandarcy Community Centre. This financial contribution is to be made to the Council **before the occupation of the 400<sup>th</sup> house.**

### **Other Provisions**

Other matters relating to the estate covenants are also requested, however these do not alter the developer's contributions to the site in terms of S106 contributions, rather detail the long term management company issues and responsibilities.

### **Other Matters**

In relation to the concerns from a local resident over the lack of progress since the site was initially commenced, and concerns that this is putting potential future residents off moving in, and delaying provision of facilities, this change to the S106 seeks to ensure progress can be made.

Whilst changes to the delivery and timing of the infrastructure are proposed, it is considered that these are still secured and will be provided to adequately address and support the needs of the community as the site expands. This should therefore be seen as an encouraging sign that the landowner still wishes to progress the site development.

Concerns over the proposed changes to the Remediation Action Plan (RAP) works, and the impact of these changes on third party land have been raised on behalf of a third party adjoining landowner. These matters have been removed from this application, and will be dealt with separately if the applicant still wishes to progress with them.

## **Conclusion**

The above sets out the basic proposals or 'Heads of Terms' for the modifications to the section 106 agreement. As confirmed above, further discussions between the Planning Authority and the developer, and where appropriate, with other internal and external Consultees will be required to add detail to the Heads of Terms, in order to agree the amended S106 agreement for this site.

Sections of the agreement will provide inbuilt review mechanisms in order that the Council can react to changes in the market thus ensuring that any changes to the wider needs of this site can be accommodated at a future date.

The decision to recommend 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 Development Plan comprises the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

It is further considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

## **Recommendation**

APPROVE the proposed changes to the principles within the S106 Agreement as outlined above, and grant delegated powers to the Head of Planning and Public Protection for any further minor amendments to these terms, subject to the agreement of the relevant consultees, on condition that the amendments do not undermine the principles/objectives as described above.