

Supporting Statement for a Detached Dwelling

Land Off Forrest Lodge Lane Cwmavon, Port Talbot



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1.0 Scope of this Document

- 1.1 I am instructed by the applicant to provide a supporting statement to set out the planning merits that support the development of the site for a detached residential dwelling.

2.0 The Site

- 2.1 The site application is located to the east of the settlement of Cwmavon of Forest Lodge Lane.

3.0 The Proposal

- 3.1 The proposed development consists of a large, self-build residential property which follows the established pattern of development along Forest Lodge Lane

4.0 Policy

- 4.1 Local Policy - The development plan for the site is the Neath Port Talbot Local Development Plan 2011-2026. The Council adopted the plan on January 2016.¹

- 4.2 Relevant Policy

SP15 Biodiversity and Geodiversity

SP20 Transport Network

SC1 Settlement limits

¹ <https://www.npt.gov.uk/7328>

EN2 Special Landscape Area

EN6 Important Biodiversity and Geodiversity Sites

M1 Mineral Safe Guarding

BE1 Design

Planning Policy Wales (Edition 10)²

3.56 Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, 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 be of a scale and design that respects the character of the surrounding area.

4.2.12 As part of considering housing delivery options, planning authorities should understand the contribution that all sectors of the housing market and house-builders could make to meeting their housing requirement. When allocating sites, planning authorities need to consider providing a range of sustainable and deliverable sites to allow all sectors and types of house-builder, including nationals, regionals, registered social landlords (RSLs), Small and Medium-sized Enterprises (SMEs) and the custom and self-build sector, the opportunity to contribute to delivering the proposed housing requirement.

4.2.13 To assist in broadening the housing delivery options and enable the provision of housing by RSLs, SMEs and the custom and self-build sector, planning authorities should set a locally determined target for the delivery of housing on small sites. To facilitate this, planning authorities should maintain a register of suitable sites which fall below the threshold for allocation in their development plan. Planning authorities should also

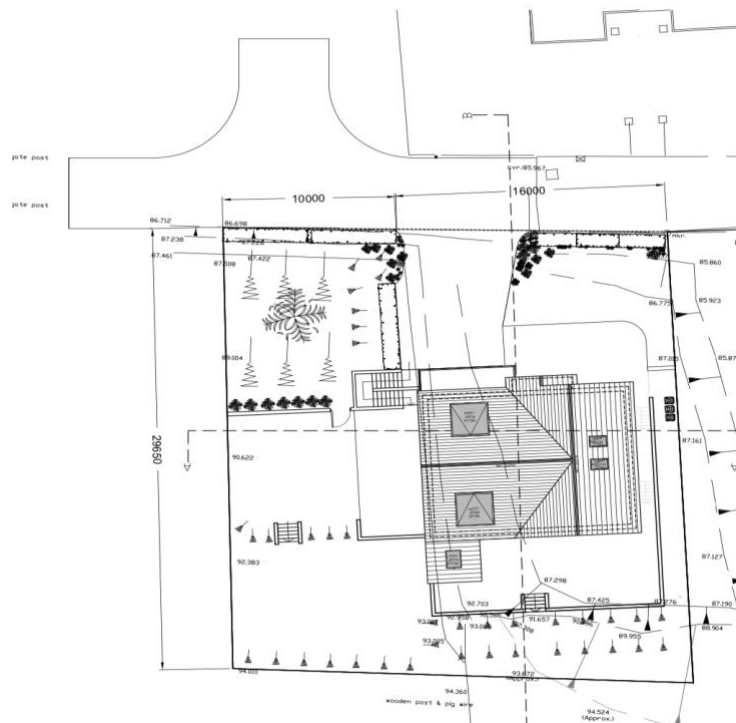
² <https://gov.wales/sites/default/files/publications/2018-12/planning-policy-wales-edition-10.pdf>

4.2.14 When promoting self-build and custom build development, planning authorities must consider all relevant policy options including the use of Local Development Orders (LDOs) and site specific design codes to simplify the planning process and enable housing development to be brought forward more quickly.

5.0 Appraisal

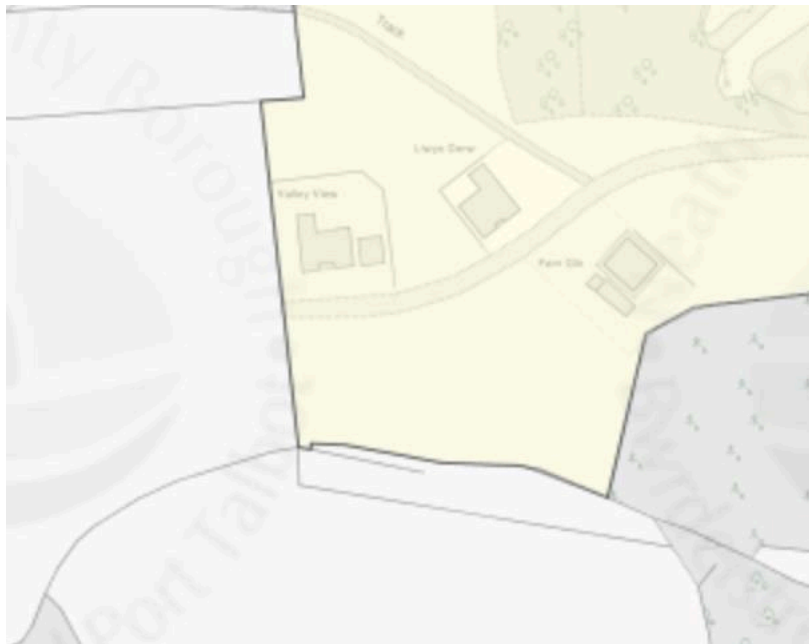
5.1 The application site is located to the east of the settlement of Cwmavon at the southern end of Forest Lodge Lane. The dwelling will form part of the Forest Lodge Lane development which is an allocated site within the LDP (*H1/LB/1*) as shown in **Figure 1** below

Figure 1



- 5.2 The proposed dwelling will be constructed predominantly within the defined settlement limit. Whilst it is noted that, for the purpose of the LDP, the proposed side garden is outside settlement limits (see **Figure 2**) where development is not generally permitted unless there is specific justification.

Figure 2



- 5.3 Notwithstanding the location of the site, partially outside the settlement, the applicant considered that there is sufficient justification to develop the site.
- 5.4 Planning law is clear: all planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.5 It is recognised that it would be impossible for a development plan to take into account every conceivable situation. In some cases, the policies in a Plan might not deal with the

type of development proposed. The Courts have held that that means they are “absent” or “silent.”

- 5.6 It is also possible that the policies could be out-of-date. Perhaps the time period the Plan was intended to cover has finished, or maybe circumstances have changed so much that the policies are no longer relevant. Policies are also considered out-of-date if they aren’t achieving what they intended to – for example, if the development plan isn’t delivering the number of new homes required.
- 5.7 Where policies are *absent, silent or out-of-date*,³ they should be given much less weight in the decision making process or perhaps even none at all. That means that other factors, known as material considerations, become more important.
- 5.8 In paragraph 45 of the judgement *Bloor Homes Limited v Secretary of State for Communities and Local Government* [2014] EWHC 754 (Admin); [2017] PTSR 1283 Lindblom J determined that a plan could be out of date if something had happened since it was adopted.

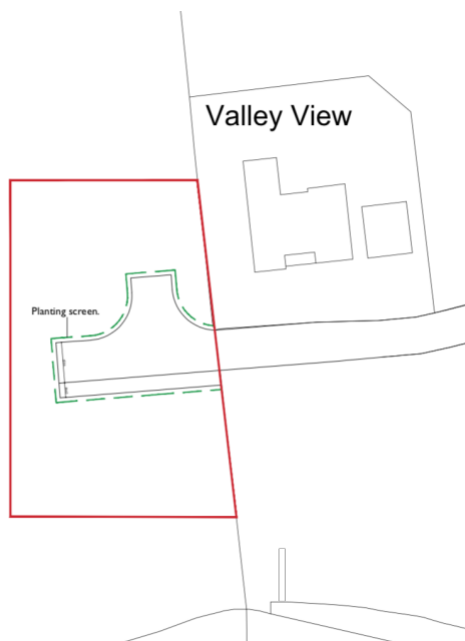
*“if the plan does have relevant policies these may have been overtaken by things that have happened since it was adopted, **either on the ground** or in some change in national policy, or for some other reason, so that they are now “out-of-date”.* (My emphasis added)

- 5.9 In this case, so far as the defined settlement boundary directly adjacent to the site is concerned, it is considered that the development plan is out of date.

³ Bloor Homes Limited v Secretary of State for Communities and Local Government [2014] EWHC 754 (Admin); [2017] PTSR 1283

- 5.10 In the July 2018 the Council granted planning permission for the Retention and completion of vehicular turning head under reference P2018/0441 (Appendix 1) as shown in **Figure 3** below

Figure 3



- 5.11 Whilst the officers report (Appendix 2) sets out specific justification for the development, the consent had the effect of extending the settlement south and subsequently moving the settlement boundary to the southernmost edge of the application site.
- 5.12 Therefore, so far as defined settlement boundary directly adjacent to the site is concerned, it is considered that the development plan is out of date and that the grant of planning permission P2018/0441, which effectively moved the settlement boundary is an overriding material consideration

5.13 Should it not be accepted that the proposal falls within the now extended settlement boundary, it is considered that the minor extension of the side garden into the open countryside is, nonetheless, justified having specific regard to the justification set out in the officer's report for application P2018/0441.

5.14 The officers report supported the application(P2018/0441) as it accorded with the supporting text of policy SC1 which stated

“ where development is permitted outside settlement limits, any new buildings must be located adjacent to existing buildings or settlements wherever possible and be of appropriate scale and form”.

5.15 The detail within the officer's report concluded that the proposal was acceptable as:

- I. It was attached the existing private drive
- II. It was as close to the existing settlement without actually being in it
- III. It was of an appropriate scale
- IV. It was visually acceptable so for as its effect on the landscape

5.16 Applying the same four tests, as set out above, the proposed development is considered acceptable as

- I. It is attached the existing private drive along its entire frontage
- II. The application site is predominately within settlement with the small side garden being “as close to the existing settlement without actually being in it”
- III. It is of an appropriate scale
- IV. It was visually acceptable so for as its effect on the landscape

6.0 Conclusion

- 6.1 So far as defined settlement boundary directly adjacent to the site is concerned, it is considered that the development plan is out of date and that the grant of planning permission P2018/0441, which effectively moved the settlement boundary is an overriding material consideration. As such the proposal lies within the existing settlement limit and therefore forms a natural extension to the existing settlement.
- 6.2 Apply the same four tests as set it in the appraisal of planning permission P2018/0441 it is considered that the proposal is an appropriate departure from the development plan.

APPENDIX 1

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL CASTELL-NEDD PORT TALBOT**

**TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (WALES) ORDER 2012**

APPROVAL OF FULL PLANNING PERMISSION

Name and address of the applicant

MR JULIAN JAMES
FOREST LODGE LANE
SA13 2RX

Name and address of the agent

MR CELLAN JONES
PRIME ARCHITECTURE LTD
UNIT 4
CROSS HANDS
3 LLANDEILO ROAD
LLANELLI
SA14 6NA

DATE REGISTERED: Thursday, 31 May 2018

APPLICATION NO: P2018/0441

LOCATION: LAND AT FOREST LODGE LANE FOREST LODGE LANE
CWMAVON PORT TALBOT

PROPOSAL: Retention and completion of vehicular turning head

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL as the Local Planning Authority in pursuance of its power under the above mentioned Act and Order hereby **GRANTS PLANNING PERMISSION** for the development as described above to be carried out in accordance with the application and the plans submitted therewith, subject to compliance with the following conditions:

Conditions:-

Time Limit Conditions

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

Reason

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

Reference No: P2018/0441

Approved Plans

(2) The development shall be carried out in accordance with the following approved plans and documents:

- Retrospective Site Block Plan and Site Location Plan Dwg 01 REV A

Reason

In the interests of clarity.

Pre-Commencement Conditions

(3) No further development shall take place until within 1 month of the date of the development hereby approved there has been a full scheme for the screening of the turning head, submitted to, and approved in writing by the Local Planning Authority. The scheme as approved shall then be implemented and retained on site within 3 months of the issue of consent for the condition detail.

Reason

In the interest of visual amenity

Action Conditions

(4) The turning head shall be completed in accordance with approved Plan Dwg 01 Rev A, within 3 months of the date of this permission and retained as such thereafter.

Reason

To ensure highway and pedestrian safety measures are implemented as soon as feasibly possible.

Regulatory Conditions

(5) The turning head shall have a minimum transverse length of 17m with a 2m wide footway over the full length of its southern boundary, provided with adequate surface water drainage and shall be constructed in accordance with the NPTCBC Specification for the Construction of Roads for Adoption within three months of this approval.

Reason

In the interest of highway safety

(6) Surface water from the surface water drainage shall be discharged at Greenfield rate into any existing surface water drainage system

Reason

In the interest of goof land drainage and highway safety

REASON FOR GRANTING PLANNING PERMISSION

The decision to grant planning permission has been taken in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, which requires that, in determining a

Reference No: P2018/0441

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 adopted January 2016

The application site is located outside the settlement boundary identified in the adopted Local Development Plan and, while located outside the settlement limit, it is considered that for the reasons outlined within the report, that the proposed development would be acceptable in principle and would not have an unacceptable detrimental impact upon residential amenity or upon the character and appearance of the surrounding area, and there would be no adverse effect upon highway and pedestrian safety.

Signed : 
Nicola Pearce – Head of Planning & Public Protection

Date: 06/07/2018

IMPORTANT:

(1) Please note that for all decisions issued after 16th March 2016 for outline or full planning permission, a revised decision notice will be issued whenever a subsequent consent is given, for example providing details of any Reserved Matters approvals (outline applications only) and/or approval of conditions (including on Reserved Matters). This will ensure that the current status of the conditions applied to a consent is clear. Accordingly you are advised to visit www.npt.gov.uk/planning to view the application documentation to see if this is the current version, or whether it has been superseded by a more up-to-date revision of this Decision Notice. For Reserved Matters approvals the revised Decision Notice will only be shown under the Outline approval.

(2) Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

(3) In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition). Please note that any works carried out without compliance with the conditions attached to this approval will be entirely at the risk of the persons involved and may result in formal action being taken by the Local Planning Authority.

(4) The developer should have regard to Sections 4, 7, 8 and 8A of the Chronically Sick and Disabled Persons Act 1970 and to the British Standards Institution's Code of Practice for "Design of buildings and their approaches to meet the needs of disabled people" (BS 8300:2009+A1:2010).

(5) From 1st October 2012 it has been an offence to install a public sewer or lateral drain without having an adoption agreement in place. From the 1st October 2012 the vast majority of all existing private sewers and lateral drains which link with the public sewer network were transferred to Welsh Water. For further details on how this will affect your development please contact: Welsh Water Developer Services, PO Box 3146, Cardiff, CF30 0EH. Telephone No. 0800 9172652 or email: developer.services@dwrcymru.com .

IMPORTANT INFORMATION: TOWN AND COUNTRY PLANNING ACT 1990

The applicant's attention is drawn to the notes below.

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Welsh Government under Section 78 of the Town and Country Planning Act 1990 (as amended).
2. You can also appeal to the Welsh Government against a decision to refuse permission or grant subject to conditions in respect of applications made for :- Listed Building or Conservation Area Consent; Consent under a Tree Preservation Order; Advertisement Consent.
3. You can also appeal If your application for a Certificate of Lawful Existing Use or Lawful Proposed Use is partly or wholly refused or is granted differently from what you asked for (under Section 195/196) of the Town and Country Planning Act 1990 (as amended).
4. If you are aggrieved of the LPAs decision, the following deadlines apply for appeals to be submitted to the Welsh Government (from the date of the Council's decision):-
 - Planning Permission (with the exception of Minor Commercial and Householder applications – see below) Within 6 Months
 - Householder Appeal see endnote i Within 12 weeks
 - Minor Commercial Appeal see endnote i Within 12 weeks
 - Listed Building or Conservation Area Consent appeals Within 6 months
 - Tree Preservation Order (TPO) Consent Within 28 days
 - Advertisement Consent Within 8 weeks
 - Certificate of Lawfulness of Existing (Section 191) or Proposed (Section 192) Use or Development Within 6 months
 - Hazardous Substances Consent Within 6 months
5. Appeals must be made on a form which is obtainable from the Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ – Tel 0303 444 5940, or online at www.planningportal.gov.uk/pcs .
6. The Welsh Government has power to allow a longer period for the giving of notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.
7. The Welsh Government is not required to entertain an appeal if it appears to them that permission for the proposed development could not have been granted having regard to the statutory requirements to the provisions of the development order, and to any directions given under the Order. They do not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by them.
8. If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Welsh Government, and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the County Borough Council, in which the land is situated, as the case may be, a **purchase notice** requiring that Council purchase his interest in the land

in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Making an Appeal

9. Please note that for all applications received by the LPA after 5th May 2017, it is now a requirement that any appeal made to the Planning Inspectorate (other than Householder and Minor Commercial Appeals, and appeals against refusal to grant advertisement consent) must be accompanied by all the information and evidence you intend to rely upon (a **“full statement of case”**). You must also send a copy of the notice of appeal and full statement of case to the LPA.
10. In addition, for ‘planning appeals’ an amendment to an application following notice of appeal may only be made to correct an error.
11. Additional details and information on making an appeal to the Welsh Government is available from the Planning Inspectorate at the above address and website. The relevant documents are entitled “making your planning appeal” and “planning appeals Public Local Inquiries”.
12. Further correspondence regarding this application should bear the reference number quoted on the top of the decision notice.

THIS NOTICE RELATES ONLY TO A PLANNING DECISION AND DOES NOT RELATE TO OTHER LEGISLATION INCLUDING ANY LEGISLATION UNDER:

- BUILDING REGULATIONS – Please contact buildingcontrol@npt.gov.uk or 01639 686949 to discuss all aspects of the service that is offered by Building Control
- HIGHWAY LEGISLATION

IF PLANNING CONSENT HAS BEEN GRANTED IT IS ADVISABLE TO ESTABLISH WHETHER ANY OTHER FORM OF CONSENT IS REQUIRED AND TO OBTAIN SUCH CONSENT BEFORE COMMENCING DEVELOPMENT

ⁱ Please see the [Town and Country Planning \(Referred Applications and Appeals Procedure\) \(Wales\) Regulations 2017](#) for appeal procedures and for full definitions of:

- *“householder application”* (essentially an application for the enlargement, improvement or other alteration of a dwellinghouse, or development within the curtilage of such a dwellinghouse, or change of use to enlarge the curtilage of a dwelling house)
- *“householder appeal”* means an appeal in relation to a householder application, but excludes an appeal against conditions on the grant of planning permission; or an appeal which is accompanied by an enforcement or listed building consent appeal.
- *“minor commercial application”* (essentially relates to existing buildings of no more than 250 square metres gross external floor space at ground floor level, currently in use for any of the purposes set out in Schedule 1A to The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2015 which is an application for change of use from Class A1 to A2 or A3; or Class A2 to A3); or the carrying out of building or other operations to a shop front.
- *“minor commercial appeal”* means an appeal in relation to a minor commercial application but excludes an appeal against conditions on the grant of planning permission; or an appeal which is accompanied by an enforcement or listed building consent appeal.

APPENDIX 2

OFFICER REPORT

App. Number:	P2018/0441
Location:	Land at Forest Lodge Lane, Cwmavon, Port Talbot
Description of Development:	Retention and completion of vehicular turning head

SITE AND CONTEXT

The application site is a rectangular parcel of land in the countryside located immediately adjacent to the housing estate known as Forest Lodge Lane.

The submitted plans indicate that parcel measures 45m by 30m at its maximum.

For the purposes of the adopted Local Development Plan, the area has been designated as being outside the settlement limits and within the open countryside.

As mentioned above, the application site is located adjacent to a self-build residential development that obtained outline planning permission in 2004 and detailed permission for roads and sewers in 2006. It must be noted that the permission for the road was never complied with and the estate does not currently have a finished road network serving it.

DESCRIPTION OF DEVELOPMENT

The application seeks full planning permission for the retention and completion of a vehicular turning head to serve the residential properties on Forest Lodge Lane.

The submitted plans detail the development as attaching to the existing 'road' on the housing estate. The structure measures approximately 22m in length with a maximum of 15m in width at the hammerhead. The plans also suggest a planted screening around the perimeter of the infrastructure.

Following the undertaking of a site visit the development was found to be substantially completed with just the surfacing left to be laid.

NEGOTIATIONS:

Officer Report

The applicant was informed that works carried out were unlawful. In response the applicant has used this submission as a way of potentially regularising the breach of Planning.

PLANNING HISTORY

The application site has the following relevant planning history: -

04/0762	Residential Development (Outline)	Approved	12/10/04
05/1376	Road, sewers and amended public right of way for residential development	Approved	27/04/06
07/0023	Agree Condition 2 of planning application 05/1376 (culvert details)		29/10/07
07/0024	Agree condition 4 of planning Application 05/1376 (Road construction details)	Approved	29/10/07
07/0025	Agree condition 8 of planning Application 05/1376 (Vehicular Safety barriers)	Approved	29/10/07
07/0026	Agree condition 11 of planning Application 05/1376 (Surface water drainage)	Approved	
18/03/08			
07/166	Agree Condition 5 of planning application	Approved	
29/10/07	05/1536 (Additional drainage work details)		
07/0168	Agree Condition 7 of planning application 05/1376(footpath link)	(undetermined)	
07/169	Agree Condition 6 of planning application	Approved	
20/12/07	05/1376 (Road support Structure)		
07/1423	Agree Condition 3 of planning application	Approved	
29/10/07	05/1376 (Visibility Splays)		
08/1303	Vary condition 1 of planning application	Approved	
31/10/08	05/1376 retaining wall		
15/1105	One detached dwelling house	Approved	
03/03/2016			

CONSULTATIONS

Bryn and Cwmavon Ward: No objections
Head of Engineering and Transport (Highways): No objections
Head of Engineering and Transport (Drainage): No objections
Land Contamination: No objections

REPRESENTATIONS

Officer Report

The neighbouring properties were consulted on May 25th 2018.

A site notice was also displayed on May 25th 2018
Notice in the Press on June 2nd 2018.

REPORT

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:

- **Policy BE1** Design
- **Policy TR2** Design and Access of New Development
- **Policy SC1** Settlement Limits

Principle of Development

The proposed development is considered to be a departure from the Development Plan as the works undertaken have taken place outside the defined settlement limits. The Plan allows development to be permitted outside limits under certain circumstances. The proposal does not comply with any of the circumstances defined in the 9 criteria which accompany Policy SC1, Settlement limits.

Notwithstanding the above, a material consideration in the determination of this application is highway and pedestrian safety. The development is located immediately adjacent to a housing estate consisting of over 20 residential units currently served off a private road devoid of any turning head facility. It is fundamental that a turning facility is provided for this estate. The developer has sought to regularise this safety issue by constructing a turning head at the end of the road, albeit on land designated as open countryside. Whilst the application is clearly a departure from the plan, the supporting text of the policy does state:

‘ where development is permitted outside settlement limits, any new buildings must be located adjacent to existing buildings or settlements wherever possible and be of appropriate scale and form ‘.

Despite its encroachment into the countryside, the turning head is attached to the existing private road. Therefore the proposal cannot physically be closer to the settlement without actually being in it. The scale of the development is limited to the function that the road infrastructure is to perform. Thereby ensuring it is appropriate in scale and form.

In view of the above partial compliance with Policy SC1 and the significant weight that needs to be afforded to a material consideration which deals with

Officer Report

the health and safety of an existing development, it is therefore considered in this instance to be an acceptable departure from the Development Plan.

Impact on Visual Amenity

The development is limited in terms of design by the functional and practical nature of the service it is to provide. That being said, the encroachment of hard surfacing into the open countryside will have an impact on the established character of area.

In order to minimise the impact on the countryside setting, the applicant has indicated screening around the turning head. That being said, the negative impact on visual amenity can be minimised by way of the appropriate mitigation measures.

Therefore, the Planning Department is minded to attach appropriate conditions to any consent granted that details a full scheme of mitigation for the screening of the turning head prior to first use.

Subject to an agreed screening scheme being implemented and retained as such on site, the impact on visual amenity is considered to be at an acceptable level which would not warrant a refusal recommendation.

Impact on Residential Amenity

The nature of the development does not lend itself to any adverse impact on residential.

There is no overbearing, overshadowing or overlooking posed by the development.

Parking and Access Requirements and Impact on Highway Safety

Before starting any assessment on highway safety it is important to note that the 'road' to which the turning head is attached to remains in a condition that is not to an adoptable standard.

Turning to the submission, the Head of Engineering and Transport offer no objections provided the completion of the turning head is constructed to a standard that Neath Port Talbot Council Road specify for adoption.

Therefore, the turning head will need to have a minimum transverse length of 17m with a 2m wide footway over the full length of its southern boundary.

These requirements will be secured by means of condition and subject to their implementation there will not be any negative impact on highway and pedestrian safety.

Officer Report

A further condition will be attached requiring the completion of the works within 3 months of the issue of consent. The reasonableness for such a condition being that the only justification for allowing this as a material departure is the highway improvement which facilitates safe turning of vehicles including refuse vehicles etc. The Planning Department need the comfort that it is completed in a timely manner to ensure such improvements are implemented. A Condition to that affect ensures this comfort.

Other Matters

None

CONCLUSION

REASON FOR GRANTING PLANNING PERMISSION

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

The application site is located outside the settlement boundary identified in the adopted Local Development Plan and, while located outside the settlement limit, it is considered that for the reasons outlined within the report, that the proposed development would be acceptable in principle and would not have an unacceptable detrimental impact upon residential amenity or upon the character and appearance of the surrounding area, and there would be no adverse effect upon highway and pedestrian safety.

RECOMMENDATION **Approval subject to conditions**

AUTHORISATION

Case Officer:	Name:	
	Signature:	
	Date:	
Authorised by:	Name:	
	Signature:	
	Date:	