

**IMPORTANT - THIS COMMUNICATION
AFFECTS YOUR PROPERTY**

BREACH OF CONDITION NOTICE

**The Town and Country Planning Act 1990 (as amended) –
Section 187A**



**ISSUED BY THE CITY AND COUNTY OF SWANSEA ("The Council")
COUNCIL REFERENCE ENF2017/0328**

To: Dr David Leopold

Address: Swn Y Mor, Plunch Lane, SA3 4JE

1. THIS NOTICE is issued by the Council because it appears to them that there has been a breach of planning control under Section 171A(1)(b) of the Town and Country Planning Act 1990 at the land described below. They consider that it is expedient to issue this Notice having regard to the provisions of the development plan and all other material planning considerations. The **annex** at the end of the Notice contains important additional information.

2. THE LAND TO WHICH THIS NOTICE RELATES

Land at Swn-Y-Mor Plunch Lane Mumbles Swansea SA3 4JE in the City and County of Swansea ("the Land"), shown edged red on the plan appended hereto ("the Plan").

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this Notice relates is the permission granted by the Council on 18th September 2015 (Reference: 2014/1888) for 'Demolition of existing dwelling and former ice-cream factory building and replacement with three detached dwellings with associated undercroft car parking, including the retention of earthworks'. This is appended hereto ("the Permission")

4. THE BREACH OF CONDITION

It appears to the Council that the following condition of the planning permission has not been complied with.

Condition 6

"Unless otherwise agreed by the Local Planning Authority, if implementation of the planning permission does not commence within 6 months from the date of this planning permission, the crane shall be moved off-site and an interim scheme shall be submitted to and approved in writing by the Local Planning Authority to make good the appearance of the excavated bank area. The scheme shall be submitted within 7 months of the date of this planning permission and shall include an agreed timetable for relocating the crane and the works to the bank area.

Reason: In the interest of visual amenity."

In that:

there has been a failure to remove the crane off the site in accordance with the schedule and there has been a failure to submit a scheme to make good the excavated bank area with timescale to complete the works.

5. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last ten years.

The condition in question required, through the removal of the crane and making good of the excavated area of bank, the protection of public amenity in a visually important and prominent location in accordance with the provisions of Policies EV1, EV2 and EV26 of the City and County of Swansea Unitary Development Plan (Adopted 2008).

The continued failure to comply with the condition results in harm to the visual amenities of the area within this prominent heritage coast area within the Gower AONB. The existing crane harms the special character of the area and its removal is necessary in accordance with the requirements of the condition.

6. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of the condition specified in paragraph 4 of this Notice you are required to secure compliance with the stated condition by taking the following steps:

- (i) Compliance with Condition 6 of Planning Permission 2014/1888 by removing the crane off the site and submission of a scheme to make good the excavated bank area with timescale to complete the works.

7. TIME FOR COMPLIANCE

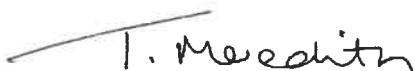
28 days beginning with the day on which this Notice takes effect.

8. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect immediately it is served on you or on the day you receive it by postal delivery.

Dated: **15th September 2017**

Signed:



Designation: **Head of Legal, Democratic Services and Business Intelligence**

The Council's Authorised Officer

Address to which all communication should be sent:

**Phil Holmes
Head of Planning and City Regeneration
City and County of Swansea
Civic Centre
Oystermouth Road
Swansea
SA1 3SN**

ANNEX

WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST

THERE IS NO RIGHT OF APPEAL AGAINST THIS NOTICE

It is an offence to contravene the requirements stated in paragraph 5 of this Notice after the end of the compliance period. You will be at risk of **IMMEDIATE PROSECUTION** in the Magistrates' Court, for which the maximum penalty is a fine amounting to £1,000 for a first offence and for any subsequent offence. If you are in any doubt as to what this Notice requires you to do you should immediately contact

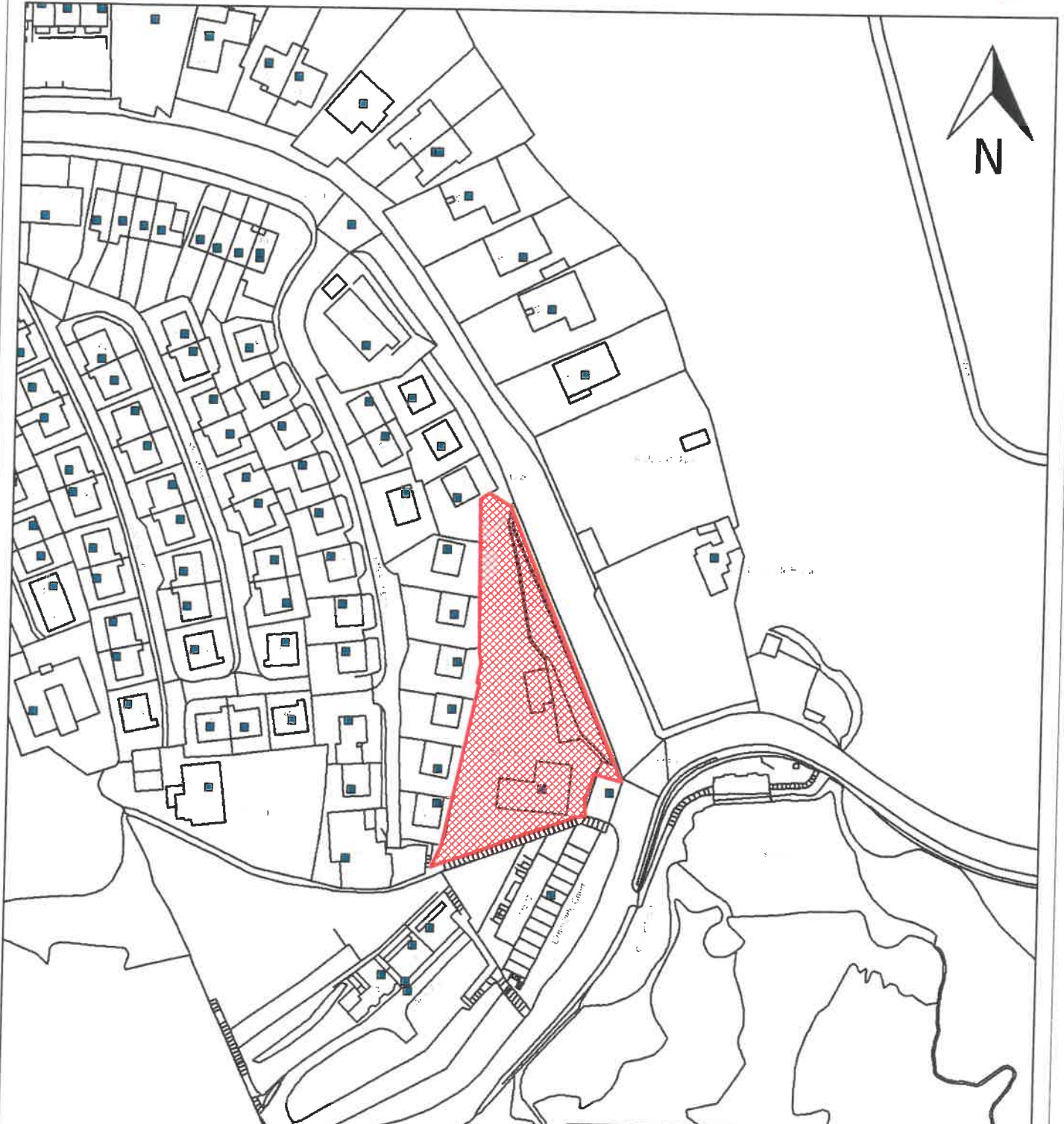
The Planning Control Section of the City and County of Swansea at the Civic Centre, Oystermouth Road, Swansea, SA1 3SN. Telephone – 01792 635692

If you need any independent advice about this Notice you are advised to contact a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of this Notice you may only do so by an application to the High Court for Judicial Review. A lawyer will advise you what this procedure involves.

"The Land"



"The Plan"



Organisation	City & County of Swansea
Department	Department
Comments	
Date	15/09/2017
PSMA Number	100023509
Scale:	1:1,250

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CITY AND COUNTY OF SWANSEA

TOWN AND COUNTRY PLANNING ACT 1990-2004

GRANT OF PLANNING PERMISSION

TO:
HYDE & HYDE ARCHITECTS
ROYAL BUILDING
10 PRINCESS WAY
SWANSEA
SA1 3LW

DATE REGISTERED: 21/06/2015

APPLICATION NO: 2014/1888

APPLICANT: Dr & Mrs J D Leopold, Dr D Martin & Dr N Leopold, K Leopold

The CITY AND COUNTY OF SWANSEA, in exercise of its powers under the above ACT, hereby GRANTS planning permission for:

SITE LOCATION:

Swn Y Mor
Plunch Lane
The Mumbles
Swansea
SA3 4JE

PROPOSAL:

Demolition of existing dwelling and former ice-cream factory building and replacement with three detached dwellings with associated undercroft car parking, including the retention of earthworks.

as referred to in your application and shown on the accompanying plan(s), subject to the following condition(s):-

- 1 The development hereby permitted shall begin not later than five years from the date of this decision.
Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act, 1990.
- 2 The completed earthworks/excavations, as referenced on drawing numbers (GA)001 Rev P01 - Existing Topo Site Plan Showing Services, (GA)002 Rev P02 - Existing Site Sections, (GA)003 Rev P02 - Existing Site Sections Showing Trial Pits and Rock Bed, received 21st June 2015, do not amount to commencement of development for the purposes of this planning permission. This permission also expressly excludes the use of the land for the storage of a crane and associated plant, other than in its reasonable use in connection with the development of the site and the requirements arising from Conditions 3, 4 and 5.
Reason: In the interest of visual amenity.
- 3 The development shall be carried out in accordance with the following approved plans and documents: [1369_LHM 100 site location and block plan, 1369_LHM 200 - Undercroft Parking, 1369_LHM 201 - Lower Ground Floor, 1369_LHM 202 - Ground Floor Plan and Roof Outline, 1369_LHM 204 - Dwelling 1 elevations, 1369_LHM 205 dwelling 2 elevations, 1369_LHM 206 dwelling 3 elevations received 9th December 2014, 1369_LHM 204 - Crane Excavation Area - Undercroft Parking, 1369_LHM 205 - Crane Excavation Area - Lower Ground Floor, 1369_LHM 206 - Crane Excavation Area - Ground Floor received 21 June 2015.
Reason: To define the extent of the permission granted.
- 4 Unless otherwise agreed in writing by the Local Planning Authority, the planning permission shall be implemented in accordance with the Demolition & Construction Drawings (GA)0007 Rev P01, (GA)0008 Rev P01 and (GA)0009 Rev P01 and a Demolition and Construction Method Statement (DCMS) to be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development. The DCMS shall include environmental management responsibilities and activities; monitoring and auditing processes and complaints response procedures.
Reason: In the interests of general and environmental amenity.

- 5 The development shall be implemented in accordance with a detailed programme of phasing, including a timetable for implementation, to be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development.
- Reason: To ensure that the development is completed in an appropriate manner and within a reasonable timescale and so avoid any unacceptable detriment to amenity.
- 6 Unless otherwise agreed by the Local Planning Authority, if implementation of the planning permission does not commence within 6 months from the date of this planning permission, the crane shall be moved off-site and an interim scheme shall be submitted to and approved in writing by the Local Planning Authority to make good the appearance of the excavated bank area. The scheme shall be submitted within 7 months of the date of this planning permission and shall include an agreed timetable for relocating the crane and the works to the bank area.
- Reason: In the interest of visual amenity.
- 7 The lower ground floor workshop of Dwelling 3 shall only be used for purposes incidental to the enjoyment of that dwelling and shall not at any time be severed from Dwelling 3 so as to create a separate planning unit. The range of activities carried out at the workshop shall be in accordance with details to be submitted to and approved in writing by the Local Planning Authority, prior to beneficial use of Dwelling 3 taking place. Approval of certain types of activity to be carried out may be subject to time limit stipulations.
- Reason: In the interest of residential amenity.
- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no development falling within Schedule 2, Part 1, Classes A, B, C, D and E shall take place, other than that expressly authorised by this permission.
- Reason: The development hereby approved is such that the Council wish to retain control over any future development being permitted in order to ensure that a satisfactory form of development is achieved at all times.
- 9 Unless otherwise agreed in writing by the Local Planning Authority, notwithstanding the details shown on any approved plan, samples of all external finishes shall be submitted to and approved in writing by the Local Planning Authority in writing prior to the development of works at ground floor level. Composite sample panels shall be erected on site and the approved sample panel shall be retained on site for the duration of the works, unless otherwise agreed in writing by the Local Planning Authority.
- Reason: In the interest of visual amenity.
- 10 The flat roof area of Dwelling 3 shall not be used as a balcony, roof garden or similar amenity area.
- Reason: In the interest of residential amenity.
- 11 Unless otherwise agreed in writing by the Local Planning Authority, the individual plot boundaries shall be in accordance with drawing number 1369_LHM 201.
- Reason: In the interests of residential amenity.
- 12 Prior to the commencement of works at ground floor level, details shall be submitted to and approved in writing by the local planning authority of the height, design, materials and type of all means of enclosure and boundary treatments to be erected, including indications of existing and proposed ground levels adjacent to boundaries. The boundary treatment shall be carried out in accordance with the approved details prior to the occupation of the dwelling hereby approved, or in accordance with a programme agreed with the Local Planning Authority.
- Reason: In the interests of visual amenity and general amenity.
- 13 Prior to the commencement of development a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority, which shall include indications of all existing trees and hedgerows on and adjacent to the land, and details of any to be retained, together with measures for their protection in the course of development. The scheme shall be implemented in accordance with the approved details.
- Reason: To ensure that the site is satisfactorily landscaped having regard to its location and the nature of the proposed development, and to accord with Section 197 of the Town and Country Planning Act 1990.

INFORMATIVES:

- 1 The development plan covering the City and County of Swansea is the City and County of Swansea Unitary Development Plan. The following policies were relevant to the consideration of the application: (EV1, EV2, EV3, HC2, EV33, EV26 and EV35)
- 2 This consent is issued without prejudice to any other consents or easements that may be required in connection with the proposed development.

- 3 Bats may be present. All British bat species are protected under Schedule 5 of the Wildlife & Countryside Act 1981 (as amended) and are listed in Schedule 2 of the Conservation of Habitats and Species Regulations 2010. This legislation implements the EC Habitats & Species Directive in the UK making it an offence to capture, kill or disturb a European Protected Species or to damage or destroy the breeding site or resting place of such an animal. It is also an offence to recklessly / intentionally to disturb such an animal.

If evidence of bats is encountered during site clearance e.g. live or dead animals or droppings, work should cease immediately and the advice of the Natural Resources Wales sought before continuing with any work (01792 634960).

- 4 Birds may be present in this building and grounds please note it is an offence under the Wildlife & Countryside Act 1981 (as amended) to intentionally (intentionally or recklessly for Schedule 1 birds) to:
- Kill, injure or take any wild bird
 - Take, damage or destroy the nest of any wild bird while that nest in use or being built
 - Take or destroy an egg of any wild bird

Care should be taken when working on buildings particularly during the bird nesting season March-August.

- 5 Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

Land drainage runoff shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

Advisory Notes

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652. Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts our Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. The Welsh Government have introduced new legislation that will make it mandatory for all developers

who wish to communicate with the public sewerage system to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water (DCWW). The Welsh Ministers Standards for the construction of sewerage apparatus and an agreement under Section 104 of the Water Industry Act (WIA) 1991 will need to be completed in advance of any authorisation to communicate with the public sewerage

DATED: 18 September 2015

PHIL HOLMES
HEAD OF ECONOMIC REGENERATION & PLANNING

PLEASE NOTE: Your attention is drawn to the attached notes which explain, amongst other things, your right of appeal against this decision.

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 or approval of the proposed development, or to refuse to grant a Certificate of Lawful Use or Lawful Proposed Use, or to grant permission or approval subject to conditions, he may appeal to the Welsh Ministers in accordance with Sections 78(1) and Section 195/196 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.

Appeals must be made within a prescribed time period. For 'Householder Appeals' and 'Minor Commercial Appeals' validated from 22nd June 2015 onwards, the prescribed period is 12 weeks from the date of this notice. For all other planning appeals, the prescribed period is 6 months from the date of this notice. The definitions of 'Householder' and 'Minor Commercial' applications are available to view at the following website:

<http://www.assembly.wales/laid%20documents/sub-ld10212/sub-ld10212-e.pdf>.

Appeals must be made on a form which is obtainable from the Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ – Tel 02920 825155, www.planningportal.gov.uk/planning/appeals. Further information on the appeals process is also available on this website. The Welsh Ministers can 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. The Welsh Ministers are not required to entertain an appeal if it appears to them that permission for the proposed development could not have been granted by the Local Planning Authority or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements to the provisions of the development order, and to any directions given under the order. The Welsh Ministers 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.

2. If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Welsh Ministers, and the owner of the land claims that the land has become incapable or reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve a purchase notice on the local planning authority in whose area the land is situated. This notice will require the local planning authority to purchase the owner's interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990. (The local planning authority may accept the notice and proceed to acquire the land; or reject the notice in which case they must refer the notice to the Welsh Ministers.)
3. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Welsh Ministers on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are out in Section 114 of the Town and Country Planning Act 1990.
4. Further correspondence regarding this application should bear the reference number quoted on the top of the form.