

## **PREFACE ITEM**

APPLICATION NO. P/99/0768

APPLICANT(S) NAME: Whitchurch Holdings Ltd

PROPOSAL: Redevelop former colliery for housing, employment (B1, B2 & B8 USES), shop and pub including land reclamation and conversion of pit head buildings

LOCATION: Land At Penallta Colliery Ystrad Mynach Hengoed Mid Glam

### **DISCHARGE OF CONDITION 5 ATTACHED TO:**

**P/99/0768 Redevelop former colliery for housing, employment (B1, B2 & B8 uses), shop and pub including land reclamation and conversion of pithead buildings: Land at Penallta Colliery, Ystrad Mynach, Hengoed**

### **IN RESPECT OF THE PROPOSED LOCALLY EQUIPPED AREA OF PLAY (LEAP) CWM CALON, YSTRAD MYNACH.**

On 23<sup>rd</sup> August 2002 the planning permission decision notice was issued for the above development. When resolving to grant permission the Planning Committee also resolved that the discharge of conditions should be referred back to the committee for determination.

Condition 4 of the planning permission states:-

Prior to the commencement of any work, other than reclamation works, associated with the development of any proposed after uses and works associated with the conversion of existing buildings, A Design Brief shall be prepared for the whole application site and shall be submitted to and approved by the Local Planning Authority. The brief shall include provision for the following:-

1. The development shall be laid out to accommodate facilities for public transport, cycling and walking, together with access for motor vehicles including delivery and service vehicles. The development to be laid out to accommodate the principles of achieving low vehicular speeds as a 20mph zone. Details of the school shall have regard for Council policy regarding safe routes to school.

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2. Of the phasing of the development should have regard to providing levels of access to accommodate all classes of highway users and particularly public transport as the development is occupied.
3. The area of land to the north west of north of Dyffryn Street and Penallta Villas shall be designed with housing between the existing housing and the proposed neighbourhood centre. A landscaping buffer shall also be provided between the existing housing and proposed new housing.
4. The design of the housing shall have regard to the guidance set out in the Council's design guide No.6 'Housing Layout'.
5. Open play space provision and outdoor sports provision in accordance with Policy L9 (as amended).
6. Defined barriers should be provided between the proposed housing and the proposed and existing industrial uses. The design, location and extent of the barriers shall be included in the submitted Brief.
7. The provision of a new primary school and associated playing fields to the Council's design specifications.
8. The structural landscaping of the whole site, incorporating as much of the existing trees, hedgerows and vegetation as possible.

In meeting the requirements of this condition Redrow Homes previously submitted a Masterplan and Design Brief, dated 23<sup>rd</sup> November 2004 for the whole application site, now known as Cwm Calon. Both the Masterplan and the Brief emerged following meetings with officers and two presentations to the Design Commission for Wales and have incorporated points raised during those exercises.

The Masterplan is the plan that sets out the strategy for the land uses, including play areas, and general layout for the whole development. This shows a LEAP - Local Equipped Area of Play - in the area of land in what is now generally opposite the northern end of Phoenix Way and the eastern end of Merlin Avenue and is subject of this application to discharge condition 5 attached to P/99/0768 relevant to this element of the development. This Masterplan was approved in December 2004.

The Brief, amongst other things provides for the appropriate level of formal open spaces, comprising a full size playing field to the north of the Power Hall, one Local Equipped Area for Play (LEAP), one Neighbourhood Equipped Area for Play (NEAP) and one Multi Use Games Area (MUGA). It is considered that the design concept is one that, if delivered, will result in a high quality development consistent with this Council's aspirations for the site.

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Whilst the Masterplan shows the strategy for the development, the details of each phase of the development as they have progressed have been submitted for the approval of the Local Planning Authority in accordance with the conditions of the planning permission. The northern end of Phoenix Way is located on Phase 2F of the development and the detailed layout/plans for this phase were approved in June 2010 and May 2012. These plans did not include the play area (LEAP) on the land opposite. The eastern end of Merlin Avenue is located on Phase 3C of the development and the detailed layout/plans were approved in July 2012. These plans also did not include the play area (LEAP) on the land opposite. Consequently, it follows that details of the LEAP would need to be submitted for consideration and approval in writing by the Local Planning Authority. In this respect the LPA has carried out a consultation exercise in respect of 118 neighbouring residential properties and a posted site notice in respect of the recent details submitted. Sixteen residents have raised objection to the development over the period of the submissions.

For information, it is worth noting that no resident consultation would have taken place in respect of the Masterplan because the site was vacant at the time. Similarly no resident consultation was undertaken in respect of the layouts/plans for the phases because the sites were vacant at that time. However, since the layouts did not include the LEAP Redrow have been advised that a scheme for that land needs to be submitted for the Council's consideration. Since there are now occupied properties immediately adjoining the land that would be the subject of a submitted scheme for a LEAP, in accordance with the Council's standard procedures occupiers of those properties have been consulted on the submitted scheme following the submission of a formal proposal by Redrow (a requirement of the approved Masterplan), to be determined by the Local Planning Authority.

The location and dimensions of the proposed LEAP details submitted, is as indicated on the previously approved Masterplan. It is accepted that changes in terms of the site layout in relation to Phase 3C, result in houses being closer to the LEAP than originally indicated. In this respect and following the receipt of concerns regarding the proximity of the LEAP to neighbouring dwellings consideration has been given to the type of equipment to be erected. It is the details of the layout of the LEAP together with the proposed equipment, which is now subject of this application.

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A LEAP measuring 18m x 25m is proposed with six pieces of equipment, each erected on a black surface with surrounding turfed areas. The pieces of equipment include:-

- Steel slide, the framework of which measures 4.7m x 2.96m and a maximum of 2.5metres high.
- A roundabout.
- Flat seat swing, the frame of which has a maximum height of 2.4m.
- Cradle seat swing, the frame of which has a maximum height of 1.8m.
- Lion springer.
- Elephant springer.
- Litter bin.
- 2 seats.
- 1.2m high bow top fencing (dark green) with two 1.2m high self-closing gates and one 3m wide combination access gate.

The details submitted have been considered in accordance with local plan policies and national planning guidance referred to below: -

#### Strategic Policy

SP1 – Development Strategy in the Northern Connections Corridor, SP5 – settlement Boundaries, SP6 – Place making, SP22 – Community, Leisure and Education Facilities.

#### Countywide Policies

CW2 – Amenity, CW10 – Leisure and Open Space provision, CW15 – General locational constraints

The following Welsh Government policies have also been considered.

TAN 12 - Design

TAN16 – Sport, Recreation and Open Space

Government's aim amongst other things is:-

“Young people's recreational needs are a priority, improving levels of physical activity and access to facilities in and outside schools. The Assembly Government recognises the critical importance of play for the development of children's physical, social, mental, emotional and creative skills. Its **'Play Policy'** (October 2002) together with the **'Play Policy Implementation Plan'** (February 2006), aims to help create an environment which fosters children's play and underpins a national strategy to provide for their play needs.

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The Assembly Government is committed to ensuring that all children have access to rich, stimulating environments in which to play freely. It recognises that play is integral to the health and well-being of children and young people, founded on the United Nations Convention on the Rights of the Child. It also recognises that providing opportunities for physical activity can help address wider health and well-being issues, particularly obesity, and that the closer a play area is to home, the more likely it is to be used by children.”

#### “Noise

**4.4** Local planning authorities should assess the compatibility of noise generating recreational and sporting activities with other uses. The siting, location and intensity of use of such activities should be given special regard in order to minimise their impact on the amenity of local residents and on the surrounding area. Local planning authorities need to balance the positive contributions of leisure pursuits to the area and user enjoyment, against local environmental quality and possible nuisance to other people.”

Planning Policy Wales, 7th Edition July 2014 states as follows:-

“11.1.3 **Sport and recreation** contribute to our quality of life. The Welsh Government supports the development of sport and recreation, and the wide range of leisure pursuits, which encourage physical activity. These activities are important for the well-being of children and adults and for the social and economic life of Wales. ‘Climbing Higher’ sets out the Welsh Government’s long term strategy for an active, healthy and inclusive Wales where sport and physical activity are used to enhance the quality of life nationally and in local communities. The Welsh Government’s main planning objectives are to promote:

- a more sustainable pattern of development, creating and maintaining networks of facilities and open spaces in places well served by sustainable means of travel, in particular within urban areas;
- social inclusion, improved health and well-being by ensuring that everyone, including children and young people, the elderly and those with disabilities, has easy access to the natural environment and to good quality, well-designed facilities and open space; and
- the provision of innovative, user-friendly, accessible facilities to make our urban areas, particularly town centres, more attractive places, where people will choose to live, to work and to visit.”

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“11.2.6 The development plan should encourage the multiple use of open space and facilities, where appropriate, to increase their effective use and reduce the need to provide additional facilities. It should ensure that open spaces and built facilities are, where possible, sited, designed and maintained as integral parts of existing and new developments so as to encourage their use and minimise crime and vandalism.”

“11.3.3 Authorities need to consider the effects of sport and recreation on neighbouring uses in terms of noise, light emissions, traffic generation and, in the case of larger developments, ease of access and the safety of residents, users and the public (sections 13.13 to 13.15).”

The Council’s Leisure Services Officers have confirmed that Caerphilly has the second highest level of obesity in Wales. It follows that our policies on creating healthy active lifestyles ties in with our commitment to providing proximal, accessible and safe areas for play and recreation. Moreover, the new Welsh Government Duty on play sufficiency requires the authority to provide such infrastructure.

The main issue to be considered in the determination of this application is in terms of the compatibility of the use with neighbouring land uses and in terms of amenity.

Objections have been raised regarding the proximity and size of the LEAP (in terms of footprint) to residential properties, the equipment to be placed on it, compatibility of the proposed use within a residential area, and potential for attracting anti-social behaviour.

The compatibility of the use of this land as a LEAP has previously been considered and granted planning approval, in principle as stated above. The location of the LEAP fully accords with the strategy of the approved Masterplan.

In terms of the objections raised these have been addressed as follows: -

1. Concern that the proposed park will be beyond that of a “toddler” park.

The Local Planning Authority can confirm that the site is identified for a LEAP. Any reference to a ‘toddlers park’ has not been generated by the LPA but it is understood has arisen as a result of sales dialogue between residents and Redrow.

2. The size of the park is greater than that presented during the sales pitch by Redrow regarding the sale of property.

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The LPA cannot comment on the sales advice given by Redrow but can only confirm the LEAP formed part of the design concept for the development of Cwm Calon and conforms to the dimensions illustrated on the Masterplan.

3. Concern that the development has moved away from the site layout indicated on the Masterplan resulting in the playground being closer to properties than shown on the original plans and resulting in privacy issues.

Phase 3C in respect of the residential development of the site was submitted and did not include the LEAP, and as such did not form part of that phase at that time. The site layout in respect of Phase 3C, was a detailed application and did not strictly adhere to the original Masterplan, resulting in certain houses along Phoenix Way being closer to the site of the proposed LEAP than originally indicated.

In terms of the LEAP layout the Council's Leisure Services and the Local Planning Authority have taken into consideration feedback from local residents and the scheme has been reconfigured whilst maintaining the appropriate provision.

4. Plans submitted have no bearing on what was sold to residents. The Managing Director in a letter dated 11<sup>th</sup> August 2014 stated that if a play area is provided in the Northern end of Phoenix Way 'it will be designed for small children, which was confirmed in another letter dated 22<sup>nd</sup> August 2014. The ladies in the Marketing suite confirmed a toddlers play area also.

The Local Planning Authority cannot comment on the sales advice given by Redrow but can only confirm the LEAP formed part of the design concept for the development of Cwm Calon. The provision of two play areas and MUGA were a prerequisite of planning approval. Condition 5, attached to the original consent requires the developer to provide these areas and meet the Welsh government play sufficiency duties.

5. There is already a playground on the site and a MUGA is also proposed.

The network of play, leisure and recreational facilities have been carefully planned to ensure adequate and sufficient provision and accommodates the number of houses, which would be built at Cwm Calon.

6. Playing field to be used by both local school and community contained within the Masterplan will be more than adequate.

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The location of the LEAP complies with Welsh Government's Play Sufficiency Duty.

7. Parc Penallta is within easy walking distance.

Parc Penallta serves the need of a wider community, whereas the LEAP directly serves the residential estate and the facilities provided meets Welsh Government's Play Sufficiency Duty.

8. Existing playground is not maintained to a good level.

Leisure Services are satisfied that the existing playground is inspected regularly and maintained in accordance with national play safety requirements.

9. Phase 3C site layout excludes the park leading residents to believe the park was not going ahead.

This statement is correct; Phase 3C site does exclude the land subject of the LEAP but the LEAP is shown on the approved Masterplan. The Leisure Services Officer has confirmed that at a meeting held with local residents, residents were aware that the site was earmarked for a LEAP.

10. Highway safety considerations given close proximity to road.

Cwm Calon has a 20 mph speed restriction. All routes are designed around specified criteria that promote a 20 mph home zone concept incorporating natural traffic calming measures. In addition the playground will be secured by fencing and self-lockable gates. The site has low traffic flows and moreover the vision splays are very clear and effective.

11. An alternative would be a financial contribution to regenerate former playground at Duffryn Street.

The planning report presented to the Planning Committee on the 8<sup>th</sup> December 2004, reported 'The site of the former children's playground is not considered to be a good location as part of the play provision for the new development as a whole, and the location of the facilities as set out in the Masterplan are supported.'

12. Conflict with paragraph 4.4 of TAN 16 – noise a possible nuisance.

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It is considered that noise from children playing at a LEAP is part and parcel of urban living and is considered no different from that experienced by e.g. children normally playing in the street. A NEAP already exists within the Cwm Calon development together with areas of open and public space adjacent to residential dwellings. Any nuisance caused resulting in anti-social behaviour would be a matter more appropriately dealt with by the Police. Council Community Safety Wardens also police such sites.

13. Will exacerbate incidents of anti-social behaviour and theft in the vicinity.

There is an assumption that this will be the case. However any incidents of anti-social behaviour would be a Police matter

14. The size of the park at 18m x 25m is too big.

The size of the LEAP has previously been approved and at 450 sq m meets the minimum activity zone of 400 sq m recommended by Fields in Trust formerly known as the National Playing Fields Association.

15. The height of the proposed Steel Slide is 2.5m high and adult swings at 2.4m high is too high and will result in loss of privacy.

The recommendations as set out by FIT suggest a buffer zone of 10m minimum depth normally separates the activity zone and the boundary of the nearest property containing a dwelling. A minimum of 20 metres should normally be provided between the activity zone and the habitable room facade of the nearest dwelling. Notwithstanding that the LEAP meets the 10m buffer zone criteria, it does not meet the 20m normally recommended between the activity zone and the habitable room façade of 18 Phoenix Way and 30 Merlin Avenue opposite the LEAP. However, FIT recommend that "For high density developments – particularly on brownfield sites- the buffer zone may have to be reduced in order to provide play facilities for the children." It is accepted the Cwm Calon site represents high-density development on a Brownfield site and the principle of the LEAP has previously been accepted and approved. Nevertheless, the concerns of residents have been taken into consideration and the equipment to be installed is aimed at younger children and as such is relatively low level. The frames of the one set of swings reaches 2.4 metres and the frame of the Steel slide reaches 2.5 metres but this is considered acceptable in planning terms.

16. The deck associated with the slide includes binoculars – another privacy issue.

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The binoculars on the piece of equipment include Perspex and are not magnified and as such will not cause a loss of privacy issue.

17. Bright garish colours are not visually acceptable.

By the nature of play equipment colours tend to be bright to provide a stimulating and challenging play experience for children. Notwithstanding this the feasibility of using other colours may be explored.

18. A public bench directly facing residential property results in loss of privacy.

It is the recommendation of FIT that seating for accompanying adults and siblings should be provided. The LPA consider they are an integral element of the play facility. The bench in the southern part of the site overlooking the roundabout is orientated such that it does not directly overlook a property and the nearest dwelling is some 25 metres away. Consequently, it is not considered that the siting of either of the proposed benches will result in overlooking or loss of privacy significant enough to adversely affect the residential amenity of neighbouring occupiers.

19. No landscaping details provide.

The landscaping of the external areas of the site are subject to the requirements of condition 8, referred to planning approval reference P/99/0768 referred to above.

20. Inadequate parking at Merlin Avenue to accommodate play area.

A LEAP is an area of open space specifically designated and laid out with features including equipment for children who are going out to play close to where they live, usually within 5 minutes walking distance.

21. Loss of view.

There is no right to a view in planning terms.

22. Does not accept that location of playground surrounded by houses is self-policing from a planning point of view.

The site is well placed because it is surrounded by houses, which provide 'eyes on the street.'

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23. Concern about future maintenance of park.

This matter will fall within the Council's maintenance programme in respect of such sites.

24. Proposed spin-me round roundabout and swings are not suitable for toddlers.

The site is a LEAP and the equipment incorporates the basic provision of equipment that provides for all ability usage.

25. Alterations have been made to the original masterplan in other aspects.

The writer has not identified specifically their concerns.

26 The Fields in Trust 'Planning and Design for Outdoor Sport and Play' (formerly the Six Acre Standard) states that LEAP areas have a buffer zone not less than 10 metres between the edge of the park and the boundary of the nearest dwelling and a minimum of 20 metres between the edge of the park and the habitable room façade of the dwelling. This is so as not to cause a significant detrimental impact on the privacy of local residents. Planning Policy Wales Section 11.1 and 11.2 supported by TAN 16 clearly recognises this guidance but houses are nearer than this particularly 18 Phoenix Way.

FIT emphasises that it does not call for slavish adherence to its own standards but would wish them to be considered, as one of a number of useful tools, in the process of determining local standards.

Accessibility Benchmark Standards are the distance thresholds used to set the catchment area for each type of space. Provision for children and young people should be located where they will be accessible on foot or by bicycle. In terms of a LEAP this is indicated to be 400m walking distance.

The definition of a LEAP is an area of open space specifically designated and laid out with features including equipment for children who are beginning to go out and play independently close to where they live, usually within 5 minutes walking time. Play features including at least 6 pieces of equipment are an integral part of the LEAP. It should be positioned beside a well-used pedestrian route, with a recommended minimum activity zone of 400 sq m.

In this County Borough a number of sites by the nature of the urbanised setting do not fit within these recommended guidelines and issues like reasonability, sufficiency and practicality are pertinent at this site.

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27. Devaluation of properties.

The devaluation of property is not a planning matter.

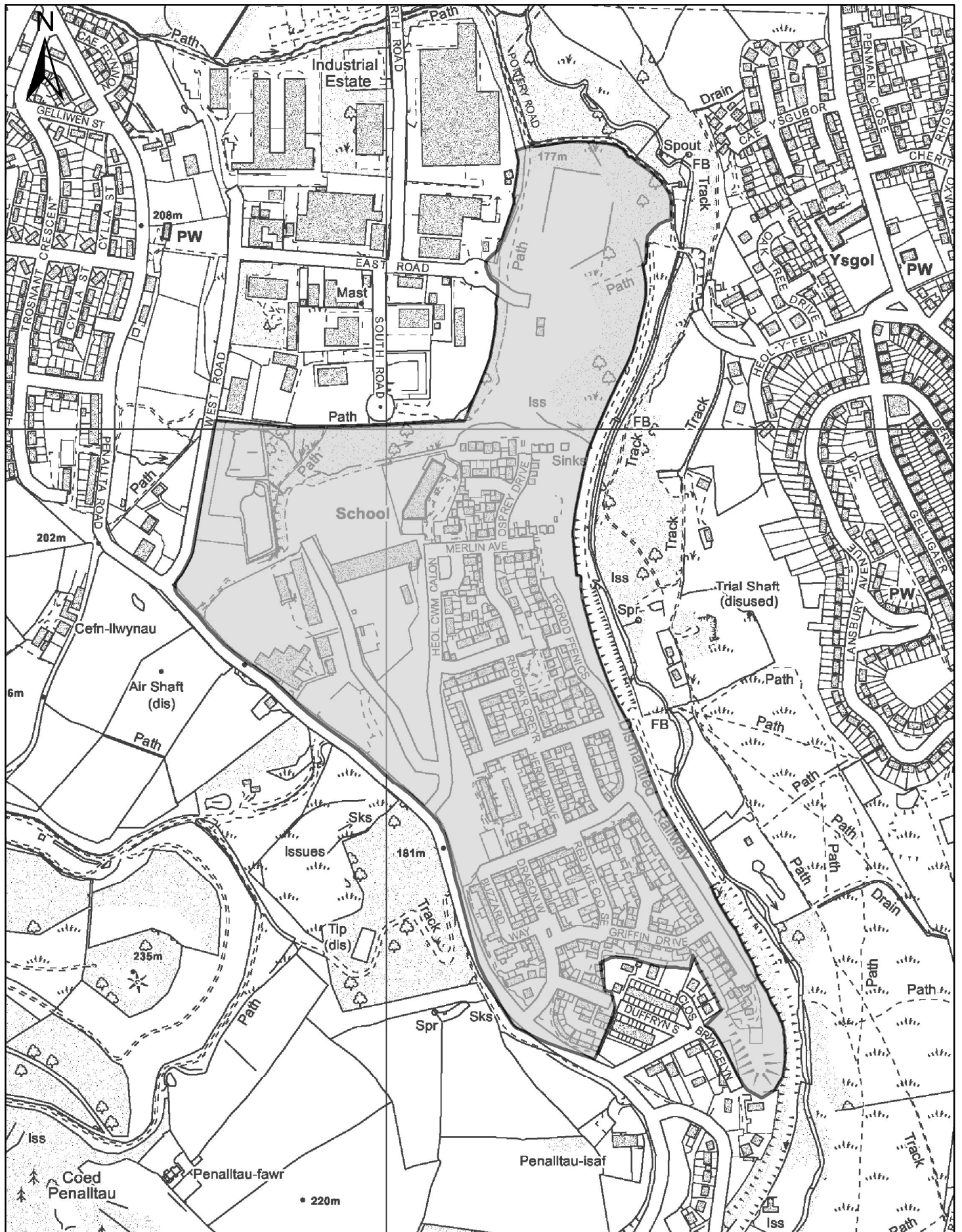
28. Concern that one access to the cycle path is proposed opposite residential property and next to the LEAP.

Details of the proposed amended cycle path links are subject of a separate report to be presented to the Planning Committee.

Finally, in terms of the equipment to be erected on the LEAP, the original scheme submitted has been revised following discussions between Leisure Services, residents and Redrow, which aim to address concerns raised. The sixth revision is now subject of this application. It is considered the proposed details submitted are in accordance with local plan policies and national planning guidance referred to above and as such are acceptable in planning terms.

RECOMMENDATION It is recommended that the details submitted in respect of the layout and equipment to be installed on the LEAP are approved.

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