

**CYFARFOD PENDERFYNIADAU'R AELOD O'R BWRDD  
GWEITHREDOL DROS YR AMGYLCHEDD  
19 MEDI 2019**

<b>Yr Aelod o'r Bwrdd Gweithredol:</b>	<b>Portffolio:</b>
Y Cyngorydd Hazel Evans	Amgylchedd

**DEISEB – CYMDEITHAS PRESWYLLWYR DWYRAIN MACHYNYS –  
MABWYSIADU A CHYNNAL A CHADW FFYRDD YR YSTÂD**

**Diben:** Ymateb i'r Ddeiseb a gyflwynwyd

**Yr argymhellion/penderfyniadau allweddol sydd eu hangen:**

Cyflwynwyd deiseb i'r Cyngor ar 10 Ebrill 2019 gan Gymdeithas Preswylwyr Dwyrain Machynys yn gofyn am fabwysiadu ffyrdd preifat yr ystâd o fewn y datblygiad.

Mae'r Aelod o'r Bwrdd Gweithredol yn nodi'r ddeiseb ond am y rhesymau a amlinellir yn yr adroddiad hwn ni fydd y Cyngor Sir yn mabwysiadu ffyrdd yr ystâd.

**Rhesymau:**

Er mwyn rhoi gwybod i drefnydd y ddeiseb fod ystyriaeth wedi'i rhoi i'r cais i fabwysiadu ffyrdd yr ystâd ond yn sgil y costau, rhwymedigaethau yn y dyfodol a'r trefniant masnachol presennol sydd ar waith bydd y Cyngor Sir yn gwrthod y cais.

Y Gyfarwyddiaeth Enw Pennaeth y Gwasanaeth: Stephen Pilliner Awdur yr Adroddiad: Cliff Cleaton	Swydd Pennaeth Trafnidiaeth a Phrifyfyrdd	Rhif ffon: Cyfeiriad e-bost: <a href="mailto:SGPilliner@sirgar.gov.uk">SGPilliner@sirgar.gov.uk</a>
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**Declaration of Personal Interest (if any):**

None

**Dispensation Granted to Make Decision (if any):**

N/A

**DECISION MADE:**

Signed:

DATE: \_\_\_\_\_

EXECUTIVE BOARD MEMBER

The following section will be completed by the Democratic Services Officer in attendance at the meeting

Recommendation of Officer adopted	YES / NO
Recommendation of the Officer was adopted <b>subject to the amendment(s) and reason(s) specified:</b>	
Reason(s) why the Officer's recommendation was <b>not adopted:</b>	

# EXECUTIVE BOARD MEMBER DECISIONS MEETING FOR ENVIRONMENT

## EXECUTIVE SUMMARY

19<sup>th</sup> SEPTEMBER 2019

### PETITION – MACHYNYS EAST RESIDENTS ASSOCIATION – ADOPTION AND MAINTENANCE OF ESTATE ROADS

A petition was presented to Council on the 10th April 2019 by the Machynys East Residents Association to request that the County Council adopts the roads within the Machynys East development in Llanelli.

Council resolved to refer the request to the Executive Board Member for Environment for consideration.

Officers have investigated and considered the request and due to reasons of cost, future liability and legal reasons recommend that the request be declined and that the road is not adopted as highway maintainable at public expense.

#### 1. Brief Summary of Purpose of Report.

The report considers a petition presented to Council on the 10<sup>th</sup> April 2019 requesting that Carmarthenshire County Council adopts as highway maintainable at public expense the currently private roads in the Machynys East development in Llanelli.

The report considers the petition and recommends that the estate roads are not adopted due to the costs and future liabilities involved.

#### 2. Petition Details

The Council at its meeting held on the 10th April 2019 (Minute 8 refers) considered a petition from the Machynys East Residents Association in the following terms:-

*"We the undersigned hereby petition Carmarthenshire County Council to overturn their previous decision and agree to adopt the roads at the Machynys East development, Llanelli, SA15.*

*We do not want to live on a private estate, mindful as we are of the possibility of escalating annual management fee costs. As Council Tax payers, it is our belief that the Council should adopt and maintain the estate roads.*

*We therefore ask the County Council to give due consideration to this petition. Of the 226 households on the development, 87% have signed this petition"*

The Council, unanimously resolved that in accordance with Corporate Procedure Rule 10.14 the petition be referred to the Executive Board Member for Environment for consideration.

### 3. Petition Numbers

Of the 226 properties on the site 189 properties signed the petition requesting adoption of the roads as highway maintainable at public expense. 37 properties did not sign the petition and one objection to the petition was received. The objection was on the basis that the householder had purchased the house because it was on a private road and the residents would be able to control the level and standard of future maintenance.

### 4. Discussion

The Highway Authority objection to adoption of the road is based upon :-

1. Throughout the development of the estate there has been a clear understanding between the developer and the County Council that the estate roads within the development would not be adopted and would remain in private ownership. This would have been communicated to new residents at the marketing stage and through the subsequent purchase of their properties.
2. The Developer has put in place a commercial arrangement with a management company to manage and maintain the estate roads and residents are charged for this service.
3. On the basis of the estate roads being retained as private, the Authority exempted the development from the provisions of the Advance Payment Code (APC) which would have been part of a process for the future adoption of the estate roads. If an APC Notice had been served and payment received, the residents could then have made a case for the Authority to adopt. The issue of an exemption notice makes a clear statement to the Conveyancer that there is no prospect of future highway adoption.
4. The properties were marketed as homes on private roads. The conveyance documents and highway search responses all confirmed its private status with no S38 Highway Adoption Agreement or bond and no prospect of highway adoption.
5. The estate roads have been designed or constructed by the developer as per the planning consent. The Residents Association in separate correspondence have also raised concerns regarding the construction of the estate roads. These estate roads have not been subject to the normal inspection regime by the Highway Adoption Section at any stage and no supervision fee ever paid as they are private.
6. There are significant unadoptable open spaces, boardwalks, court yards, parking areas etc. which would require a management company to maintain them even if the main spine road was adopted.
7. The petition refers to a paragraph in the sale of the land from Carmarthenshire County Council to Machynys Homes regarding future highway adoption, however the land was subsequently sold to Persimmon who developed and sold the properties on the basis that future maintenance would be undertaken by a management company. This is supported by Planning Approval of reserved matters S/19474 Condition 7 which states: No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established.

DETAILED REPORT ATTACHED ?

No

# IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: S Pilliner

Head of Highways and Transport

Policy and Crime & Disorder	Legal	Finance	ICT	Risk Management Issues	Organisational Development	Physical Assets
<b>NONE</b>	<b>YES</b>	<b>YES</b>	<b>NONE</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>

## Legal

The Authority has no duty to adopt highways other than those which have been the subject of a S38 Highway Adoption Agreement.

As highway adoption is a voluntary process, the Authority does not have powers to adopt a highway against the legal owner's wishes.

A commercial arrangement is in place between property owners and Remus, a professional residential management company.

## Finance

Adoption of this highway would place an undue burden on the Highway Maintenance budget due to the design and materials utilised.

As no S38 Highway Adoption agreement was ever entered into the Authority has not received its usual supervision fees or commuted sums.

## Risk Management Issues

Should the highway become adopted it would need to be added to the list of highway maintainable at public expense for twice yearly safety inspections and maintained accordingly. The Residents Association has highlighted construction concerns related to the construction of the estate roads within the development. These matters should be resolved following discussion between the Residents Association and the management company Remus.

## Physical Assets

Should the highway become adopted it would need to be added to the list of highway maintainable at public expense.

## Staffing Implications

Should the highway become adopted it would need to be added to the list of highway maintainable at public expense for twice yearly safety inspections and maintained accordingly. This would add to the workload of existing highway maintenance and public lighting staff.

# CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: S Pilliner

Head of Highways & Transport

1. Scrutiny Committee - N/A
2. Local Member(s) - N/A
3. Community / Town Council - N/A
4. Relevant Partners - N/A
5. Staff Side Representatives and other Organisations - N/A

**Section 100D Local Government Act, 1972 – Access to Information**  
**List of Background Papers used in the preparation of this report:**

**THESE ARE DETAILED BELOW:**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Petition		Environment Department, Parc Myrddin
Council minutes – 10 <sup>th</sup> April 2019		<a href="http://democracy.carmarthenshire.gov.wales/ieListDocuments.aspx?CId=155&amp;MId=2224&amp;Ver=4">http://democracy.carmarthenshire.gov.wales/ieListDocuments.aspx?CId=155&amp;MId=2224&amp;Ver=4</a>