



## **Adroddiad**

Ymchwiliad a gynhaliwyd ar 03 & 04/10/19

Ymweliad â safle a wnaed ar 04/10/19

**gan A L McCooey BA MSc MRTPI**

**Arolygydd a benodir gan Weinidogion Cymru**

**Dyddiad: 21.11.2019**

## **Report**

Inquiry Held on 03 & 04/10/19

Site visit made on 04/10/19

**by A L McCooey BA MSc MRTPI**

**an Inspector appointed by the Welsh Ministers**

**Date: 21.11.2019**

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TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78

APPEAL BY PERSIMMON HOMES EAST WALES

LAND AT HEOL Y CEFN, CEFN FFOREST, BEDWELLY, CAERPHILLY

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## **Glossary**

EIA Environmental Impact Assessment	HLS	Housing Land Supply
JHLAS Joint Housing Land Availability Studies	LDP	Local Development Plan
NCC Northern Connections Corridor	NDF	National Development Framework
NRW Natural Resources Wales	PPW	Planning Policy Wales
PROW Public Right of Way	SAC	Special Area of Conservation
SOCG Statement of Common Ground	TA	Transport Assessment
TAN Technical Advice Note		

**File Ref: APP/K6920/A/19/3226294**

**Site address: Land at Heol y Cefn, Cefn Fforest, Bedwellty, Caerphilly**

- The application was recovered for decision by the Welsh Ministers, made under section 78 of the Town and Country Planning Act 1990, on 31 May 2019.
- The application is made by Persimmon Homes East Wales to Caerphilly County Borough Council.
- The application Ref 17/0681/OUT is dated 4 August 2017 and was refused by notice dated 8 November 2018.
- The development proposed is to erect residential development (up to 300 dwellings) together with associated open space, landscaping and parking provision; and seek approval of access and scale.

**Summary of Recommendation: that the appeal be allowed and planning permission be granted subject to conditions.**

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**Procedural Matters**

1. At the Inquiry an application for costs was made by the appellant against Caerphilly County Borough Council. This application is the subject of a separate Report.
2. A direction has been issued that the appeal shall be determined by the Welsh Ministers. The direction is made under the powers provided by Section 79 and paragraph 3(1) of the Town and Country Planning Act 1990. The proposed development is for residential development of more than 150 homes, and this was the reason given for the direction.
3. A screening direction was given by the Planning Inspectorate under the authority of the Welsh Ministers as to whether the proposal is Environmental Impact Assessment (EIA) development within the meaning of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, ("the Regulations"). The assessment noted that the appeal site is located close to the Aberbargoed Grasslands SSSI/SAC and the Registered Park and Garden at Maes Manor; there are also a number of other identified biodiversity issues on site. It concluded that, given the localised nature and limited scope of the potential impacts and taking account of the scale of development proposed, significant environmental effects are unlikely in this case. The direction given was that the proposal is not EIA development within the meaning of the Regulations and that consequently, EIA is not required. This direction accords with the screening opinion given by Caerphilly County Borough Council (the Council).
4. The description of the development was changed from that on the application form. This was discussed at the inquiry and it was confirmed by the appellant and Council that the wording had been amended during the processing of the application with the agreement of both parties. This is the correct wording to describe the proposal and has therefore been used in the above heading. It was confirmed that the only plans to be considered for approval are the site location plan (annotated red line plan) and the plan AM01 - access and movement (in terms of access only). The other illustrative plans are not relevant to this report.
5. I undertook an accompanied site visit on 4 October 2019 with representatives of the Local Planning Authority, the appellant and Councillor Dix (as the agreed representative of local residents who attended the Inquiry). I also carried out several unaccompanied visits to the area and surrounding roads at various times of the day, including during the morning peak hour for traffic.
6. Welsh Government undertook a consultation on the Temporary dis-application of paragraph 6.2 of Technical Advice Note 1 (TAN1) – Joint Housing Land Availability

Studies (TAN1) (pending a review of the delivery of housing through the planning system) in a consultation document dated 10 May 2018. The results of the consultation were published in July 2018. By letter dated 18 July 2018 the Cabinet Secretary for Energy, Planning and Rural Affairs announced the intention to undertake a wide-ranging review of the delivery of housing through the planning system and a call for evidence<sup>1</sup>. In order to support the review and alleviate some of the pressure on Local Planning Authorities from speculative applications for housing development on unallocated sites, the letter disapplied paragraph 6.2 of TAN1. The Welsh Government published "Delivery of housing through the planning system: A call for Evidence" also on 18 July 2018. The summary of the consultation responses was published in October 2019.

7. After the closure of the Inquiry (on 9 October 2019), the Welsh Government published a further consultation document entitled "Delivery of housing through the planning system: Revisions to Planning Policy Wales and associated advice and guidance". It is proposed to revise Planning Policy Wales and delete TAN1 in its entirety. The consultation states: "Further to the changes already made to Planning Policy Wales and proposed in the forthcoming new edition of the Development Plans Manual, this consultation proposes: 1. To remove the requirement in Planning Policy Wales for local planning authorities to provide a five-year supply of land for housing. 2. To consequently revoke TAN 1 in its entirety. 3. To replace the monitoring of housing land supply by the monitoring of housing delivery based on the LDP housing trajectory, to be reported through the Annual Monitoring Review." The consultation period ends on 20 November 2019. As this is a consultation on proposed changes, I afford this document little weight in my consideration of the appeal proposal.

### **The Site and the Proposal**

8. The site lies to the north of Cefn Fforest, which is a residential area to the north of Blackwood. An established residential area known as Grove Park lies to the south of the site. There is agricultural land on the other 3 sides and that to the west is within a designated green wedge. The site is bounded to the west by Heol y Cefn which leads to Markham to the North. The land is greenfield and comprises 5 fields separated by hedgerows, extending to around 9.7 hectares. There is an existing Public Right of Way (PROW) running across the site. It is substantially enclosed by hedges following an established track, shown on the red line plan.
9. The application was submitted in outline with access and scale of the development to be considered at this stage. All other matters were reserved for subsequent approval. Details of the two proposed access points to Heol-Pit-Y-Ceiliogod and Beaumaris Way are provided. The matters of landscaping, layout and appearance are reserved for future approval. The maximum numbers of dwellings and the height and size parameters of the proposed dwellings are specified.

### **Planning Policy**

10. Caerphilly Local Development Plan (LDP) is the development plan for the area. The Plan was adopted in November 2010 and covers the period up to 2021. The purpose of the Plan is set out at paragraph 0.9<sup>2</sup>. Section A of the Plan sets out the Development

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<sup>1</sup> The letter is referred to as "the Minister's Letter" in this report

<sup>2</sup> The purpose is quoted in full below as part of the Council's case

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Strategy and its key components and also contains the Strategy Policies. The site is within the Northern Connections Corridor (NCC) where Policy SP2 favours sustainable development on both greenfield and brownfield sites. Blackwood is a principal town (top tier) under Policy SP4. Under Policy SP14, the Council has made provision for the development of up to 10,269 new dwellings in the County Borough between 2006 and 2021 in order to deliver the 8625 new dwellings required to meet the moderate growth strategy. Policy SP15 seeks to deliver at least 964 affordable dwellings over the same period.

11. The critical strategy policy for consideration of this proposal is Policy SP5 on Settlement Boundaries. This policy sets out the reasons for definition of settlement boundaries (A to D). B is to promote the full and effective use of urban land and thus concentrate development within settlements. D is to prevent inappropriate development in the countryside. The site lies adjacent to, but outside the defined settlement boundary for Blackwood/Cefn Fforest.
12. Other strategy policies of relevance are: SP6 Place Making, SP7 Planning Obligations, SP10 Conservation of Natural Heritage, SP14 Total Housing Requirements, SP15 Affordable Housing Target<sup>3</sup>, SP19 Transport Infrastructure Improvements. The site is within an extensive mineral safeguarding area defined under Policy SP8. The Council has agreed that this is not a reason to refuse planning permission because there is no realistic prospect of the mineral resource in this area being worked. There are no other site-specific designations affecting the site.
13. The LDP also contains a suite of Countywide Policies that should be considered in respect of all development proposals as a matter of course. The countywide policy of most relevance to the reason for refusal is Policy CW15 General Locational Constraints. The proposal does not meet the terms of criterion C of the policy, which defines types of development that will be permitted outside settlement boundaries. The other policies of relevance are: Policy CW1 Sustainable Transport, Accessibility and Social Inclusion; CW2 Amenity; CW3 Design Considerations - Highways; CW4 Natural Heritage protection; CW5 Protection of the Water Environment; CW6 Trees, Woodland and Hedgerow Protection; and CW10 Leisure and Open Space provision.
14. Planning Policy Wales (PPW) and the relevant provisions of its accompanying Technical Advice Notes provides the national policy context for the proposal. PPW Edition 10 has been aligned with the Well-being of Future Generations Act and emphasises the ways of working under the Act and achieving well-being through Placemaking. The Strategic Placemaking section (p.34) advises on suitable locations for development in a search sequence with previously developed land or under-utilised land within settlements as the first choice and then sites on the edge of settlements. Paragraph 4.2.5 states that Local Planning Authorities must clearly set out housing requirement for market and affordable housing in their development plan, these figures must be based on evidence. The supply of deliverable land to meet this requirement must be demonstrated through a housing trajectory (4.2.10). Paragraph 4.2.15 states that authorities must ensure that sufficient land is available or will become available to provide a 5-year housing land supply (HLS). The housing trajectory demonstrates how the Local Planning Authority will maintain a 5-year HLS over the Plan period. Maximising the use of suitable brownfield land can assist regeneration and at the same time relieve pressure for development on greenfield sites (paragraph 4.2.17).

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<sup>3</sup> Policy CW11 sets the % level of affordable housing for each area. It is 25% for the NCC.

## Other Agreed Facts

15. A signed Statement of Common Ground (SOCG) between the appellant and the Council (the parties) was submitted prior to the Inquiry and is included in the papers. In summary, the SOCG sets out the details of the application and its determination by the Council, including details of the two reports to Planning Committee<sup>4</sup>. The relevant Local Development Plan policies are discussed, and the parties are agreed that the proposal conflicts with Policies SP5 (criteria B and D) and CW15. The parties agree that the proposal complies with other relevant policies.
16. The parties agree that the proposal complies with Policy SP2 and refer to the Committee report where it states: "Policy SP2 promotes sustainable development that should be targeted to both greenfield and brownfield sites within the northern connection corridor having regard to the social and economic functions of the area. The application site is greenfield and is very well related to the existing urban form. Furthermore, development of the site will contribute to the social and economic function of the area. Therefore, as the proposal accords with Policy SP2, it is not advised to refuse the proposal on the basis that the site is a greenfield site". The parties agree that site is located in a sustainable location in close proximity to a wide range of services and facilities. Having considered the Landscape and Visual Impact Assessment submitted with the application and the views of the Council's Landscape Architect, the parties are agreed that the proposal complies with Policy CW6.
17. The submitted ecological surveys and reports are described. The effect of the proposal on the Aberbargoed Grasslands Special Area of Conservation (SAC) has been considered and it is agreed that the proposal would not have an adverse impact on the integrity of the SAC or its primary species (Marsh Fritillary butterfly). The Ecological Impact Assessment provides Ministers with the information to undertake an Appropriate Assessment<sup>5</sup>. The parties are also agreed that there would no objection on ecology grounds. The comments of NRW and related views of the Local Planning Authority on ecology matters are reported below under the heading Written Representations.
18. The application was accompanied by a robust Transport assessment. The results of this assessment were scrutinised by an independent consultant for the Council and the Transportation Engineering Manager concluded that the proposal would not have an unacceptable impact on the highway network. A package of sustainable transport measures has been agreed and included within a planning obligation (see below).
19. The issue of the capacity of local health and educational facilities was considered in the two reports to Planning Committee. In summary, the Health Board were consulted on the proposal and had no grounds to object to the proposal on the grounds of pressure on health services. There is no evidence to support pressure on Doctors' surgeries as a reason for refusal. The Education Authority confirmed that there is adequate provision available in all schools to serve the proposal. The consultation correspondence confirmed that whilst Blackwood Comprehensive School is near capacity, there are a number of pupils from outside the catchment area. In addition, receipts from the Community Infrastructure Levy may be used to fund school improvements and other community facilities, as necessary.

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<sup>4</sup> Appendices to the SOCG

<sup>5</sup> I provide further information on this matter in my conclusions

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## **The Case for Persimmon Homes East Wales**

20. The areas of controversy between the Appellant and the Council in this appeal are very narrow. The appeal site is unallocated. It is outside, but immediately adjacent to the settlement boundary for Blackwood / Cefn Fforest. The Appellant accepts that this means that the appeal scheme is contrary to Policies SP5 and CW15 of the adopted LDP. This is the only identified development plan conflict. The Council's case against the appeal scheme is confined to an in-principle policy objection to it being an on an unallocated, greenfield site outside the settlement boundary. No significant 'on the ground harm' is alleged.
21. In particular, the following matters are either expressly agreed in the SOCG, or not disputed in the Council's evidence:
- Despite being outside the settlement boundary, the site is "very well related to the existing settlement of Blackwood / Cefn Fforest" and "represents a logical extension to the settlement": as noted in the 7th November 2018, Officer's Report.
  - The site is a sustainable location for residential development in terms of accessibility to services and facilities.
  - The vehicular trips generated by the appeal scheme could be accommodated on the local highway network without unacceptable impacts (either in terms of congestion or in terms of safety).
  - It has no landscape designations. In particular, and in contrast to some of the other unallocated greenfield land outside the settlement boundary, it lies outside the designated Green Wedge designed to preserve Cefn Fforest from the next settlement, Aberbargoed. The appeal scheme would be "very well related to the existing urban form" and would have an acceptable landscape and visual impact.
  - Subject to conditions and reserved matters, negative impacts on ecology (including in relation to European Protected Species and the nearby Special Area of Conservation, Site of Special Scientific Interest and National Nature Reserve) can be avoided and some ecology benefits can be achieved (see para 5.27 of the SOCG). To the extent that an appropriate assessment is needed, the ecological assessment work submitted by the Applicant provides the material needed to undertake that assessment and to conclude there would be no adverse impact on the site integrity of the SAC (SOCG para 5.17).
  - There is no basis for withholding planning permission in relation to impacts on infrastructure; all such impacts are either provided for by s.106 or Community Infrastructure Levy contributions or are subject to regimes that are separate from the planning system.
22. Accordingly, this is not a case where strict application of settlement boundary policies is necessary to prevent planning harm. It is common ground that no significant harms at all would arise from the development.
23. The appeal scheme's benefits (albeit not the weight to be attached to them, which is addressed below) are also agreed. Principally, these include:
- Boosting the Council's deliverable HLS by 300 homes, 25% of which (75 homes) would be affordable.
  - Generating considerable economic benefits to the local economy. The full list of economic benefits is set out in the appellant's statement of case at paragraph

- 8.10 (pp.52-53). They include £8.7M gross value added to the local economy and 76 full time equivalent additional jobs.
- Ecology benefits (see above).
24. The critical point of controversy is whether the delivery of these benefits, without any countervailing price to pay in terms of 'on the ground harms', outweighs the conflict with development plan policies relating to the settlement boundary (SP5 and CW15) so that material considerations justify the non-accordance with the development plan.
25. The key facts in relation to HLS are largely agreed and can be summarised as follows: The Council currently only has a 2-year HLS – a shortfall of 2702 homes from the 5-Year HLS required by PPW and TAN1. This is not a temporary blip – there has been a recorded 5-Year HLS shortfall for each of the last 9 reporting years. The magnitude of the shortfall is substantial: it has been at or below 2.5 years – less than 50% of what is required to meet identified needs – for each of the last 6 years. The current direction of travel is downwards (2.0 years HLS in 2019 compared to 2.3 years HLS in 2018). There is no evidential basis to conclude that the shortfall will be resolved within the next 5 years.
26. The 2-year HLS figure has been reached taking account of past completions as well as deliverable LDP allocations and brownfield sites<sup>6</sup>. It necessarily follows from this that reliance on LDP allocations and brownfield sites alone does not come close to addressing the identified housing need for the area. They cannot be the answer to addressing the low HLS because they have already been taken into account in calculating that figure. PPW (at paragraphs 4.2.5 and 4.2.10) states that it is a necessary function of a development plan to provide for a supply of housing that meets identified needs. The witness agreed that, in light of the substantial and sustained undersupply in Caerphilly, it was fair to conclude that the Council's adopted LDP has not performed that necessary function over the last 9 years. It has fallen short of what a development plan is meant to do (this is relevant to the weight to be given).
27. The Council's best-case timescale for the adoption of a new LDP is late 2023 / early 2024<sup>7</sup> – i.e. at least 3 years away, assuming there is no slippage. The appellant's witness rightly suggested in evidence that this was somewhat optimistic (and was not challenged in cross-examination on the point). Until the adoption of the new LDP, there will be no new allocations. It therefore follows that an essential tool for remedying the substantial HLS shortfall in the meantime (bearing in mind that the 2-year HLS figure already takes account of allocations and brownfield sites) is the potential for unallocated greenfield sites to contribute towards addressing the substantial unmet housing needs, provided their development would be sustainable and would generate no overriding harm (as is agreed to be the case here). In cross-examination, the witness eventually accepted that the grant of planning permission on some unallocated greenfield sites may need to be considered if the Council is to regain a 5-year HLS. This accords with the conclusions of the Annual Monitoring Report that have been endorsed by the Council. The Council's Annual Monitoring Report (AMR) 2018 was endorsed by the Council on the day before the application was considered by the planning Committee. The AMR states a need to continue to address the shortfall in the Council's five-year housing land supply by considering proposals for new residential development on their relative planning merits on a site-by site basis.

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<sup>6</sup> Table 4 of the Joint Housing Land Availability Study appended to Mr Williams' statement

<sup>7</sup> Cllr Whitcombe's statement of evidence, para. 2.13

28. Moving the focus from the District-wide position to the Greater Blackwood position, it is notable that the report to Planning Committee observed that there is only one remaining residential allocation within the settlement boundary, and that it is not available as it is used as an operational ambulance station. The witness accepted this in cross-examination and agreed that this meant that the adopted LDP provided no remaining deliverable pipeline of new homes in Greater Blackwood. His only response was to suggest that there were potential sites outside of Greater Blackwood within commuting distance. It is respectfully suggested that relying on those as the only means of providing for the growth needs of Greater Blackwood itself is not a sustainable approach to planning.
29. The central controversy is what the implications of the above considerations are for the weight to be given to the 5-year HLS shortfall and the contribution that the appeal scheme would make to addressing it. The position of the Council as articulated at the inquiry is that the report to Planning Committee (at paragraph 16.7) was wrong to state that these considerations meant that there is an “urgent need to increase the housing land supply within the county borough” and that the Minister’s letter of 18 July 2018 disapplying para. 6.2 of TAN1 meant that the Council was entitled to give reduced weight to the HLS issue when balancing it against the conflict with settlement boundary policies.
30. As to this: It is untenable to describe the HLS situation as anything other than “urgent” given the facts set out above. The Council has misunderstood the effect of the Minister’s Letter:
- TAN1 para. 6.2 previously imposed a blanket requirement to give “considerable weight” to the need to redress a 5-year HLS shortfall irrespective of considerations such as the magnitude of the shortfall, whether it was a temporary blip or a long-term problem, and the extent of the contribution that the proposed development would make. The same considerable weight was required be given to the issue in considering (i) a 10 dwelling development in circumstances where an authority had maintained a 5-year HLS for many years but had fallen slightly behind to, say 4.9 year supply in the past year; as was require to be given in considering (ii) a 100 dwelling development in circumstances where the authority had a one year HLS having had a 5-year HLS shortfall for the last 10 years.
  - The disapplication of TAN1 para. 6.2 means that this blanket requirement to give “considerable weight” to a 5-year HLS shortfall irrespective of the particular circumstances of the case has gone.
  - There remains an obligation on LPAs to maintain a 5-year HLS: see PPW10 and TAN1 (para. 6.1).
  - A 5-year HLS shortfall remains a material consideration.
  - All that has changed is that “considerable weight” is no longer automatically given to this material consideration – instead a judgment needs to be reached as to what weight should be given to it in the circumstances of any given case.
  - The Minister’s Letter therefore does not preclude considerable or significant weight being given to this consideration (where the circumstances support doing so) – it just does not require it. Contrary to the Council’s apparent approach, it is wrong to treat the Minister’s letter as reducing the weight to be given to this simply – it simply means that the amount of weight it should be given is a matter of judgment rather than an automatic consequence of TAN1 para. 6.2.

- This is consistent with the stated objective of the Minister’s Letter. It is easy to see how the automatic giving of considerable weight irrespective of the circumstances (such as magnitude of the shortfall, whether it was a temporary blip or a long-term problem, and the extent of the contribution that the proposed development would make) could lead to the kind of free-for-all that the Minister was concerned about. It meant that, for the Local Planning Authority’s duty to maintain a 5-year HLS, a miss was as good as a mile. Harmful development could potentially be justified on the basis of a very slight and short-lived HLS shortfall, even if the development itself would make little contribution to meeting that shortfall. But that is far from this case. It is respectfully suggested that development which is sustainable and would not generate overriding harm, and which would make a meaningful contribution to addressing a long term, very substantial HLS shortfall, would not be the kind of negative ‘speculative development’ which was the mischief at which the Minister’s Letter was directed.
31. As to the approach to be taken to what weight should be given to a 5-year HLS shortfall following the disapplication of TAN1 para. 6.2, the approach of the Inspector in para. 55 of a decision letter of February 2019 on an appeal regarding residential development on a site in Deganwy should be endorsed<sup>8</sup>: “The weight to be attached is dependent on the magnitude of the shortfall, how long the shortfall will persist, what the local planning authority is doing to reduce it and how much will the development contribute to meeting the shortfall”. The Council has not provided any coherent explanation as to why these are not relevant considerations in considering what weight to be given to a 5-year HLS shortfall. Taking these considerations in turn:
- Magnitude of the shortfall: on any view this is very substantial at 2702 dwellings (almost double the 1357 shortfall in the Deganwy decision, where at para. 57 “significant weight” was given to the HLS deficit). The 2-year HLS means that only 60% of identified needs are unmet.
  - How long the shortfall will persist: it has already persisted for 9 years and the witness accepted that there is no evidence that it will be resolved in the next 5 years (in the Deganwy decision the Inspector concluded that it would not be rectified until 2021, 3 years after his decision).
  - What the Council is doing to reduce it: para. 56 of the Deganwy decision records that as an interim measure in advance of its new LDP, Conwy Council had produced a guidance note designed to provide for the regulated release of unallocated greenfield sites in sustainable locations. No such step has been taken by Caerphilly County Borough Council. This very appeal shows that it is continuing to resist unallocated greenfield sites even where it accepts that they would be sustainably located and would not have any overriding impacts.
  - How much will the development contribute to meeting the shortfall: the provision of 300 dwellings including 75 affordable homes, on one site and at the expense of no significant ‘on the ground’ planning harms is a considerable contribution (almost three times the contribution of the 110 dwelling scheme which was the subject of the Deganwy decision).
32. These considerations strongly support the conclusion that, in the circumstances of this appeal, considerable or significant weight should be given to the HLS shortfall and the contribution the appeal scheme would make to addressing it. Further, the weight to be

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<sup>8</sup> Appeal Ref APP/T6905/A/17/3188913 against the decision of Conwy CBC.

given to the conflict with the settlement boundary policies of the adopted LDP should be reduced by the fact that – as the witness agreed in cross-examination – the adopted LDP has not for 9 years performed one of the essential functions of a development plan, namely to provide for a supply of housing that meets identified needs. Over almost its entire lifetime since it was adopted in November 2010, it has in this respect not done what a development plan is meant to do.

33. The concerns expressed by the Council’s witness about the impact of greenfield developments on the deliverability of brownfield sites was entirely unevicenced. In re-examination, he was asked by his own counsel to give an example and he was unable to offer one. As the appellant’s witness consistently explained, the problems with those brownfield sites that are currently undeliverable are inherent to those sites themselves – e.g. viability issues due to the challenges of contamination and remediation. He also explained that the Aberbargoed Plateau site which the Council’s witness mentioned is Council owned and there is no evidence of it having even gone on the market yet. Its non-delivery to date cannot be attributed to greenfield developments. The development plan, through Policy SP2, makes clear that in the Northern Connections Corridor both greenfield and brownfield sites have a role to play in meeting needs – it is not a question of one or the other. The Council’s proposed response to the consultation on the draft National Development Framework<sup>9</sup> (endorsed by Council Cabinet on 1 October 2019) makes the same point. Further, the substantial 5-year HLS shortfall is indicative of the fact that demand considerably outstrips supply which as the witness accepted in cross-examination logically means that there is a market for both greenfield and brownfield sites and that it cannot be said that allowing this greenfield site would remove the market for any brownfield site.
34. To reiterate, the fact that the appeal site is an unallocated greenfield site outside the settlement boundary is the only basis on which conflict with the development plan is alleged/identified. Without some such sites coming forward for development, the Council will not come close to remedying its substantial 5-year HLS deficit. This appeal site and scheme would provide an ‘easy win’ given its unconstrained nature, sustainable location and absence of any significant alleged on the ground harm. The balance of benefits and harms falls firmly in favour of granting permission. The Appellant therefore respectfully submits that the appeal should be allowed

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<sup>9</sup> INQ4

## **The Case for Caerphilly County Borough Council**

35. The principal point at issue in this appeal is whether the admitted and substantial breach of the Local Development Plan's spatial strategy that the proposed development would involve is outweighed by the need for housing in the County Borough.
36. The fact that the prospective breach of the development plan is common ground, and therefore attracted little scrutiny at this inquiry, does not mean that its significance should be overlooked or trivialised.
37. The purpose of the LDP, which is set out at para 0.9, is to:
- Provide a practical and detailed basis for the control of the development and use of land through the 'development control' system. It will provide potential developers with a clear indication of the type and location of development which the County Borough Council would accept and encourage, and an equally clear indication of the circumstances in which development will be resisted
  - Afford protection to the natural and built environment to ensure that in the long term the most valuable aspects of the environment are conserved for the benefit of future generations
  - Provide an incentive to developers by allocating land for particular types of development, thus stimulating the use and development of land. The Plan, therefore, has a promotional role in the development of the County Borough and provides a framework for investment decisions.
  - Bring local and detailed planning issues before the public. The LDP provides a clear indication of the likely land-use changes within the County Borough, and how those changes are likely to affect specific interests. Arrangements are made for people and organisations to comment on the policies and proposals in the Plan and so influence its content
38. The LDP seeks to maximise the development of brownfield sites, of which there are many in the County Borough, where possible<sup>10</sup>. This fully accords with national policy in PPW<sup>11</sup>, which sees the use of brownfield sites as a means of minimising the development of greenfield land and assisting regeneration. The settlement boundaries fixed by the LDP serve to promote the development of brownfield sites, as well as preventing inappropriate development in the countryside.
39. The development of a site of a little under 10 hectares in area for up to 300 dwellings outside the clearly-established settlement boundary of Blackwood cannot be described as anything other than a major breach of the LDP. It is not infill or a minor extension<sup>12</sup>, and one has only to glance at the location plan to see that Mr Williams's suggestion that the appeal scheme amounts to a rounding off of the settlement is absurd. The scheme would extend a significant distance into the countryside, following boundaries that reflect land ownership rather than any rational end-point. This is development that drives a coach and horses through the LDP's spatial strategy.

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<sup>10</sup> E.g. LDP paras 1.12, 1.31-1.33, policy SP2 para 1.59, 3.111. See also Councillor Whitcombe's statement at para 3.2.

<sup>11</sup> At paras 3.39-3.41, 3.51, 4.2.16, 4.2.17.

<sup>12</sup> Two forms of development in the countryside referred to in para 3.56 of PPW.

40. Rightly, the Council is concerned that to permit substantial new development on greenfield land outside settlements would undermine the aims in both national and local policy of securing the redevelopment of brownfield land. The example was given of the Aberbargoed Plateau, a couple of miles to the north of Blackwood, which is allocated for extensive development in the LDP<sup>13</sup>. Despite its allocation, it is not a site that has come forward because of the costs associated with its development. If instead of brownfield sites such as this, private developers can readily obtain permission for major development on greenfield sites in the countryside, it is obvious where they will focus their attention.
41. The Council fully acknowledges both the requirement in national policy to show a five-year supply of housing land and the continuing shortfall in supply. But there is no support in PPW for ad hoc development outside settlements to address this shortfall. Furthermore, the change in policy effected by the Minister's letter of 18 July 2018 was intended to reduce the pressure on LPA's of having to deal with speculative applications for development such as the present while the Minister's review of the planning system is undertaken. Thus, although the appeal scheme would help to meet the need for more housing in the County Borough, it is not a form of development supported by policy at any level.
42. The appellant makes the point that the Council has not objected to the appeal scheme on the grounds of specific impacts, such as on ecology or heritage assets, but that merely means there are no further unacceptable effects on the site and its surroundings. It does not reduce the significance of the departure from the development plan. The appellant also refers to the economic benefits of the proposals, but those benefits are not unique to this development and do not justify setting aside the spatial strategy.
43. As set out above, the purpose of the LDP has a number of elements to it. Each of these would be undermined by the proposed development. The clear indication of where development is and is not acceptable would be compromised. The protection given to the natural environment would be diminished. The incentive to develop brownfield land would be weakened. And the public's wishes, which have shaped the LDP, would be rejected. The appellant asserts that the Council's reason for refusal raises a pure policy objection, but that is to ignore the purpose the development plan is trying to achieve.
44. There is a need to add to the housing land supply in the County Borough, but this does not justify development on the scale proposed outside the settlement boundary. Accordingly, the Council respectfully invites the Minister to reject the appeal.

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<sup>13</sup> LDP policy HG1, allocation HG1.18; appendix 7.

## **The Cases for Interested Persons that Appeared at the Inquiry**

### **The Case for Councillor Dix**

45. The references to 5-year HLS in TAN1 have implications for the LDP. The Councillor has been involved in extensive regeneration work with the Council. The focus is on brownfield sites and meeting the needs of local people. The speculative building on greenfield sites threatens this re-development because it is easier to build on those type of sites. The appellant has gained planning permission for several greenfield developments in the Caerphilly area. There are sites for development (687 units) available in Aberbargoed, which is the area that needs investment to support its regeneration.
46. The Councillors objection letter and attachments is OBJ1 in the appeal documents. In summary it states: Caerphilly CBC has many brownfield sites in the Heads of the Valleys Regeneration Area that are not being developed because of speculative proposals such as this on greenfield sites elsewhere. A lot of money has been spent on infrastructure and reclamation in order to attract housebuilders such as the appellant company. If former industrial communities are not to be left behind, we need investment in development on brownfield sites. Not speculative development on greenfield sites contrary to the development plan and the wishes of local communities. This over-development of towns such as Blackwood at the expense of deprived communities cannot be allowed to continue.

### **The Case for Councillor Simmonds**

47. The Planning Committee reached the right conclusion. We should not be building on meadow land when there is a declared climate emergency. The points about regeneration of the Aberbargoed plateau and a site at Bedwellty Road are supported. The LDP focuses development in the wrong areas. There is a shortfall of land in the area. Local facilities cannot cope. The Council's reply to the National Development Framework must recognise the Minister's position i.e. that we must learn from past mistakes and focus on the needs of local communities.
48. There are significant issues with the trunk sewer in the area. There is a hydraulic surcharge which can only be exacerbated by the proposed development. The traffic assessment on behalf of the appellant is 3 years out of date. There are only two roads into this area and the theoretical maximum is exceeded. The local roads cannot cope with the increase in traffic as a result of the proposal.

### **The Case for Mr Royston Williams**

49. Mr Williams read from his objection letter to the Planning Inspectorate (OBJ2). In summary, the main points were that the proposal would result in the loss of an important area of countryside. The access roads to the area are narrow and some are residential streets that are blocked by parked cars. There is severe congestion at peak times. Evidence of congestion at Blackwood Comprehensive School was provided by a local councillor. This development would generate about 800 cars, which cannot be accommodated on the road network. There are a considerable number of new houses approved within 2.5 miles of the site, with more planned.
50. The existing Doctors' Surgeries cannot cope with the demand and are stretched to breaking point. It is impossible to get appointments and he has personal experience of the problems caused. The local schools are full to capacity. The wishes of local communities are being ignored by housebuilders interested only in profit. The number

of greenfield sites that have been approved contrary to the LDP prompted the Council and local residents to write to the Minister asking for a suspension of the 5-year HLS. The Council considered all these issues over two meetings of the Planning Committee and voted to reject this application. Blackwood is being developed at an alarming rate and the roads and local services cannot cope. Residents object to the destruction of these greenfield sites and countryside.

### **Written Representations**

51. Natural Resources Wales (NRW) raised potential impacts on the Aberbargoed SAC as an issue to be addressed. The Ecological Impact Assessment addressed these issues. The appellant and Local Planning Authority advised that the required mitigation measures can be imposed as conditions on any planning permission. In these circumstances, NRW advises that there are no concerns with the impact on the SAC. As noted above, The Ecological Impact Assessment provides Ministers with the information required to undertake an Appropriate Assessment.
52. The other significant issue raised was the impact on protected species, in this case, bats. A rare species had been reported commuting and foraging along the public right of way traversing the site. Further survey work was required to inform how the development could be delivered without impact on bats. NRW confirmed in its final letter (dated 2 October 2019) that adequate survey work had been completed in September by the appellant. NRW considers that the development can be delivered with no significant adverse impacts on bats, subject to several conditions regarding the implementation and maintenance of a wooded corridor, which follows the line of the PROW across the site, and the protection of two bat roosts on the site. The Local Planning Authority is content that these measures can be addressed by the suggested conditions in the event that planning permission were to be granted.
53. Blackwood Town Council objected to the proposal on the grounds that it would be contrary to the LDP, its considerable environmental impact and the impact on highways, schools and medical facilities in the area.
54. In addition to Mr Williams letter, 22 individual letters of objection from local residents were received in connection with the appeal<sup>14</sup>. The local residents raise concerns in respect of the site being situated outside the settlement boundary on greenfield land and query why other brownfield land cannot be used. Other more suitable sites are available. The nature conservation value of the site would be lost to the detriment of existing residents' well-being. The site is close to the Aberbargoed Grasslands SAC and the proposal would impact on important flora and fauna. The proposal would result in increased traffic and parking and would lead to congestion and use of an inadequate road network. Several objectors refer to many problems experienced on the nearby minor road known as Harry's Hill, due its width, gradient and alignment. There would be increased pressure on local services such as schools and health care facilities. The proposal would set a precedent for further greenfield development and the democratic decision taken should be respected.

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<sup>14</sup> All the objections received are on file

55. In addition to letter from Councillor Dix, letters objecting to the proposal were received from Assembly Members Ms R Passmore and Ms D Jewell as well as Councillors Mills, Davies, Etheridge and Farina Childs<sup>14</sup>. All objected on the basis of the dis-application of paragraph 6.2 TAN1 and concerns regarding developers gaining planning permission for speculative developments outside settlement limits as well as similar grounds to those reported above. Councillor Farina Childs also referred to potential archaeological significance of the site. He also comments as the chair of Governors of Blackwood Comprehensive School that it is nearly full.
56. Responses received from consultees and other organisations at the application stage have also been taken into account and are on the case file. Summaries are included in the Council officer's report to committee. Dwr Cymru confirms that there is sufficient capacity to accommodate foul drainage but not surface water drainage. This can be addressed by a planning condition prohibiting the discharge of surface water to the main sewers. The water supply to the area may need to be upgraded to serve the proposal. A condition is suggested in order to address this issue. Cadw considered the appellant's Heritage Assessment and concluded that there would be no impact on the setting of Maes Manor Historic Park and Garden. Cadw raised no objection to the proposal. Further consultations were undertaken in connection with the concerns raised by Councillors at the first Planning Committee meeting. The outcome of these consultations is reported in the second Planning Committee report and is summarised in the SOCG (as detailed above).
57. The outcome of consultations within the Council is reported in the Planning Committee Report and in the SOCG. There were no objections in respect of landscape and visual impact or ecology. The concerns in relation to the impact on local highways were not supported by the Highway Authority. No objection was raised by the rights of way officer. The head of public protection requested that an air quality assessment be undertaken to assess the air quality impacts of the proposal upon the immediate highway network. The Local Planning Authority considered this request to be unreasonable and without any evidential basis in terms of air quality information demonstrating any likely impact. The nearest Air Quality Management Area is in Blackwood High Street, which is unlikely to be affected by this proposal. The impact of the proposal on local air quality was assessed by consultants for the appellant. Their conclusion was that adverse air quality impacts in Cefn Fforest or Blackwood are unlikely.
58. Written representations received at the application stage have also been taken into account. They are summarised in the Council's committee report which records 39 individual letters of representation. Two petitions with 157 signatures relating to the impact of the proposal on the highway network were received. A further petition objecting to the site's possible inclusion for housing development in the proposed replacement LDP dated April 2016 with 397 signatures was also received.

### **Conditions and Obligations**

59. The main parties provided a list of draft agreed conditions during the Inquiry. Following discussion of these conditions at the Inquiry in the light of Welsh Government Circular 016/2014 a revised list was submitted. I informed the parties that I would consider that list and delete, amend and refine them in order to meet the tests, advice and model conditions in the Circular. My suggested conditions are set out in Annex A below.

60. Agreed conditions 8 and 12 are not necessary as the details of layout and parking should be submitted as part of the reserved matters. I have deleted them from Annex A. I recommend that the agreed conditions on landscaping matters (nos. 15, 20 and 25) are replaced with the model conditions in the circular. This will inform the appellant of the requirements for landscaping details to be submitted as part of the reserved matters submission. Agreed conditions 16 and 31 related to matters already addressed in condition 11 requiring a Strategic Green Infrastructure Management Strategy. I have therefore deleted them from Annex A.
61. The reasons for the conditions have been provided and I shall therefore confine my comments to those conditions that require further explanation. Condition 5 requires the approval of drainage details and is necessary because the site is potentially exempt from the new sustainable drainage regime. Conditions 7 to 10 address the highway aspects of the proposed development including improvements to off-site highway infrastructure. Conditions 11 - 16 and 27 are necessary to ensure that the matters raised by NRW are addressed in any reserved matters submission.
62. A duly signed planning obligation is included with the documents. This provides for 25% of the residential units to be affordable housing in accordance with all the terms of the obligation. The Council's Solicitor confirms that these provisions are acceptable for the purposes of this appeal. The obligation provides for 10 days notice of the commencement of development to be provided to the Council. It also includes obligations to contribute £60,000 to traffic signal improvements at the Fairview/A4049 road junction, £150,000 to support a package of sustainable travel measures, £5,000 for the travel plan reserve fund, and £25,000 to fund a travel plan co-ordinator payable over 5 years.

## **Conclusions**

63. These conclusions are based on the evidence submitted and given at the Inquiry and the written representations summarised above, and my findings at the accompanied and unaccompanied inspections of the site and surroundings. The key documents referred to in this report are listed below. The SOCG appends the relevant Committee reports and the 2019 Joint Housing Land Availability Study (JHLAS) is appended to Mr Williams' statement. The other documents referred to are available on file.
64. The starting point for consideration of the proposal is the LDP. Statute requires a decision on an application for a development proposal to be made in accordance with the development plan unless material considerations indicate otherwise. The appeal site is outside the settlement limits for Blackwood or Cefn Fforest, as defined in the LDP. There is no dispute that the appeal proposal is therefore contrary to the aims of parts B and D of Policy SP5 and criterion C of Policy CW15 (refer to Planning Policy Section above). As all parties are agreed that the proposal does not accord with planning policies that seek to control new development outside settlement boundaries, I consider that the main issue is whether there are other material considerations that would justify granting planning permission with particular relevance to the supply of housing and sustainable development. I shall then deal with the other issues raised by the objectors to the proposal.
65. The structure of my conclusions will be to consider the weight to be given to the shortfall in the supply of housing land in Caerphilly CBC; whether the proposal would be sustainable development; the potential disbenefits of the development and the benefits arising from the development. I will then reach my overall conclusions on the appeal proposal.

*The shortfall in the supply of housing land*

66. The LDP has set the settlement boundaries on the basis of the allocation of sufficient land to meet the housing requirements identified in the Plan. At the moment progress toward meeting this requirement is reported in the JHLAS. The JHLAS also calculates the current HLS to measure a Council's performance on the requirement to provide a 5-year HLS. This is referred to in PPW as noted above and TAN1 at paragraphs 2.1 and 6.1, which remain in force. It is agreed that the Council has continually failed to meet this requirement since the Plan was adopted. The JHLAS calculates the HLS for Caerphilly is currently 2 years, representing a shortfall of 2702 dwellings. The evidence is that the actual figure has been at or below 50% of the 5-year requirement for the last 6 years. I also note that the 2019 JHLAS provides information on the number of dwellings completed since the start of the plan period in 2011. The figure quoted in Table 4 is 4835. I note above that the overall requirement to 2022 in the adopted LDP was to provide 8625 dwellings. This evidence of past building rates and completions against the need identified in the LDP is another aspect of the shortfall that I consider to be relevant.
67. I have set out the provisions of the Ministerial letter in the procedural matters section of this report. I agree with the parties that a shortfall in the 5-year HLS remains a material consideration following the dis-application of paragraph 6.2 of TAN1. The advice in paragraph 6.2 to afford any shortfall considerable weight has been deleted. The letter states that it is therefore a matter for the decision-maker to decide what weight should be afforded to the need to increase HLS where a Council has a shortfall in its housing land. I will provide my assessment in the succeeding paragraphs, but ultimately the question of the weight to be attached is a matter of judgement.
68. The appellant suggested an approach adopted by another Inspector in order to assess the weight to be given to this HLS/shortfall issue. Although the site was in North Wales the issue under consideration was similar<sup>15</sup>. The decision states that the weight to be attached is dependent on the magnitude of the shortfall, how long the shortfall will persist, what the local planning authority is doing to reduce it and how much will the development contribute to meeting the shortfall. I consider that this is a logical and objective basis on which to decide the matter of weight.
69. The JHLAS takes account of sites with planning permission (including those awaiting completion of a s.106 obligation), and deliverable sites allocated for housing in the development plan (including brownfield sites). The magnitude of the shortfall in HLS is considerable at 2,702 dwellings or a 2-year HLS. The shortfall has persisted for 9 years and has increased in extent (despite the speculative planning permissions granted in recent years). The Local Planning Authority embarked on a review of its LDP in 2013, and the deposit version of the Replacement plan included the current appeal site as a proposed housing allocation. The Deposit Replacement LDP was withdrawn in July 2016, and therefore has no status in respect of this appeal<sup>16</sup>. The evidence shows that preparation of the Council's replacement LDP has not yet commenced but may do so shortly. The Council's witness estimated that the replacement LDP may be adopted around early 2024. This was considered to be optimistic by the appellant's witness, based on previous experience. The delay in adopting a new LDP would be around 4 years or more. Despite the recommendation of

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<sup>15</sup> Appeal Ref APP/T6905/A/17/3188913 for a residential development in Deganwy against the decision of Conwy CBC. For ease of reference this decision is provided with the documents

<sup>16</sup> Paragraph 2.6 of the Council's written statement of evidence

the Annual Monitoring Report, there was no evidence of any other steps or interim measures to release additional sites in order to increase HLS being taken to date.

70. The proposal would provide up to 300 dwellings (25% of which would be affordable). This would be a considerable contribution towards meeting the identified shortfall and would be over and above the sites and planning permissions included in the JHLAS. Taking all these factors into account, I attach significant weight to the need to increase housing land supply as a material planning consideration.
71. The Council's sole concern was that the proposal would be contrary to the provisions of the development plan. I recognise the purposes of the Plan and the importance of the plan-led system. However, appropriate measures should be considered when a Plan is not meeting one of its core or fundamental objectives – that of providing sufficient land to meet housing needs as required by PPW and TAN1. The deliverability of brownfield sites allocated in the Plan has been questioned. It is evident from the JHLAS that these large sites are not viable or ready to come forward for development. The site on which the Council and objectors rely is the nearby Aberbargoed Plateau. There was no evidence that it has not been delivered because of greenfield developments. Quite the contrary, this site is in Council ownership and it explained that the site has not come forward due to the costs associated with its development. Surprisingly, no further explanation as to when it will be ready was offered. No examples of brownfield sites that are available for development were advanced. I note that both the LDP itself and the Council's recent response to the NDF consultation<sup>17</sup> recognise that both greenfield and brownfield sites would be required to meet housing needs in this area.
72. I afford no weight to the Council's reference in the statement of evidence to the former use of past build rates in some circumstances. This method is not endorsed by development plan guidance, TAN1 or PPW. The Council did not rely on this point at the Inquiry or in its closing submissions. The other issues of scale of the development outside the settlement limits and any adverse impacts are matters to be taken into account in the final analysis.

*Whether the proposal would be sustainable development*

73. The Officer's report appended to the SOCG states that the site is very well related to the existing settlement of Cefn Fforest and that the proposal would be a sustainable extension to the town of Blackwood, a principal town in the LDP. It was a candidate site in the abandoned replacement LDP. The site is within easy walking and cycling distance of local shops, services and schools via existing roads and pedestrian routes. There are existing local bus services to Blackwood town centre, which is a short distance away. From there bus services provide access to local train stations in Newbridge and Ystrad Mynach. The train station at Pengam is a short car trip away from the site and has park and ride car parking. The submitted s.106 obligation provides funding to improve existing bus services to the site and fund a package of sustainable travel improvements. I therefore agree with the main parties that the proposal would represent sustainable development.

*Impact on traffic and highway safety*

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<sup>17</sup> INQ4

74. The Council had no objections to the proposal on the grounds of traffic. The application was supported by robust Transport Assessments (TAs). The results of which have been verified by consultants on behalf of the Council. The assessment provides surveys of traffic flows and the operation of all the 24 junctions that may be affected by the proposal. The results show that all links and junctions would continue to operate within capacity up to 2035.
75. The concerns of local residents regarding traffic impacts were carefully considered by the Council, before deciding that a reason for refusal on this basis would not be justified. The appellant's statements provide a response to all the issues raised by objectors. I visited the area at peak times to observe the traffic situation for myself. I viewed the local network around the site, the main roads leading to the Chartist Bridge and school traffic. My observations were that, whilst there was considerable traffic volume, the road network was operating reasonably well. This supports the conclusions of the TA and the Council. I noted that there was some congestion around the Bloomfield Road entrance to Blackwood Comprehensive School. However, this was for a limited time and is no different to the situation around schools across Wales.
76. There is no reason to suppose that the proposal would significantly add to this congestion. I also observed that the minor road known locally as Harry's Hill is well-used as a shortcut presumably to avoid the traffic lights at Fairview when accessing the A4049 to the west of the site. I note that the junction of Harry's Hill with the A4049 and the operation of the traffic lights at the Fairview/A4049 junction<sup>18</sup> would be improved as part of the proposed development. This would address the impact of additional traffic generated by the proposal on those junctions and improve safety. A package of measures to encourage sustainable transport is also part of the proposal. This would assist in reducing car borne trips associated with the proposal.
77. In terms of highway safety generally, whilst there was some evidence of local incidents, the appellant has considered the accident data as part of the TA process and the results demonstrate that there is no particular highway safety problem on the local road network. This view is supported by the Highway Authority and the Council generally. Having considered all the evidence, I find that there would be no reason to withhold planning permission on the basis of the effect of the proposal on the local highway network or highway safety.

#### *Ecological impact*

78. The SOCG sets out the ecological surveys and analysis that has been undertaken for the appellant. This was supplemented by further surveys submitted with the statements of case and an updated bat survey in September 2019. The Council's ecologist and NRW are content that there would be no adverse impact on the SAC subject to conditions. NRW suggested that a payment towards the running of the SAC centre may be warranted. The Council was content that as there would be no adverse impact on the SAC no payment would be necessary. I agree. The surveys have also demonstrated that there is no habitat of the type found in the SAC present on the appeal site.
79. There are protected species present on the site. NRW as the statutory body responsible has confirmed that there are no remaining concerns in terms of the impact on protected species. The impact on bat species (including the rare Bechstein's bat) can be mitigated by the retention of the hedgerows along the existing track through

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<sup>18</sup> The former by condition and the latter under the s.106 obligation

the site (a PROW). These hedges would be enhanced with existing hedges that would be required to be transplanted from the proposed development areas. This would be included in the detailed design as a dark corridor, which is required by the suggested conditions.

80. I am content that the submitted ecological impact assessment; information and reports; the response of NRW and the Council's ecologist provide the necessary information for Ministers to conclude that there would be no adverse impact on the SAC or protected species, as long as the suggested conditions are attached to any planning permission granted. The views of the Council, the appellant's consultants and NRW persuade me that there is no basis to refuse planning permission on the grounds of ecological impact. The requested conditions have been included as agreed.

*Impact on local infrastructure*

81. I have considered all the evidence from local residents and councillors on this issue. This matter was raised at the Planning Committee stage as a possible reason for refusal. The Council's officers have conducted thorough consultations with all the bodies responsible for the various services in question (included in the Committee reports). Dwr Cymru has confirmed that there may be an issue with water supply. This can be addressed by condition and the developer can secure improvements if necessary. The foul sewerage system is adequate according to Dwr Cymru. The authority's education department has confirmed that there is capacity at Blackwood Comprehensive School. A significant number of current students are from outside the catchment area and future students from dwellings on this site would be within the catchment and have priority. The Health Board was consulted and had no objection to the proposal. The Board is aware of the need to provide for up to 8625 additional dwellings as allocated in the LDP. The Council is aware of local issues and has considered this matter fully. The Local Planning Authority decided that refusal on the grounds of pressure on local infrastructure as a result of the proposal could not be justified. The evidence supports this view and I agree with the Council's assessment.

*Benefits of the proposal*

82. The appellant describes the benefits of the scheme above as: boosting the HLS by up to 300 homes 25% of which would be affordable (up to 75 homes), economic benefits to the local economy in terms of £8.7 million gross added value and 76 jobs, and ecology benefits by enhancements to the existing track (PROW) through the site. The proposal provides for highway improvements, sustainable travel and play and recreation space as required by the Local Planning Authority.

*Other matters*

83. I have considered the possible impact on designated heritage assets and archaeological remains within the site. The Heritage Assessment found that there would be limited potential for archaeological remains. Cadw agree that there would be no impact on the Maes Manor Historic Park and Garden or associated listed buildings. Cadw had no objection to the proposal. These matters are agreed between the Local Planning Authority and the appellant<sup>19</sup>. I therefore consider that there are no grounds for concern regarding the impact of the proposal on heritage assets. The landscape and visual impact of the proposal has been considered and I agree with the main parties

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<sup>19</sup> Paragraph 5.6 of the SOCG

that it can be controlled by conditions related to landscaping and the retention of existing trees and approval of the layout of the development.

84. Most of the other relevant matters raised by objectors have been addressed above. Objectors and the Council's environment health officials had concerns related to the effects of the proposal on local air quality. The Local Planning Authority considered these concerns to be without any evidential basis in terms of the lack of any air quality information demonstrating any likely impact. The Committee report states that the nearest Air Quality Management Area is in Blackwood High Street, which is unlikely to be affected by this proposal. The impact of the proposal on local air quality was assessed by consultants for the appellant. Their conclusion was that adverse air quality impacts in Cefn Fforest or Blackwood as a result of the development are unlikely (see APP05 on file). The potential impacts of the construction of the proposal on existing residents can be controlled by suitable conditions (condition nos. 22 and 23 refer). The Council's Committee report identifies the points made by objectors at the application stage and responds to each. I agree with the responses and do not repeat them here.

#### *Conditions and Obligations*

85. In the event that Welsh Ministers decide to allow the appeal, I agree that the conditions set out in Annex A would be necessary and reasonable for the reasons set out above in the section on conditions and obligations and throughout my conclusions. The suggested conditions would satisfy all the tests set out in Circular 016/2014.
86. I consider that the submitted obligations are necessary, are related to the proposed development and related in scale and kind and therefore meet the appropriate tests set out in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97. Accordingly, the Section 106 obligations should be afforded weight in the determination of the appeal. Further contributions to improve local infrastructure such as schools, roads or leisure facilities/open space could be sought under the Council's Community Infrastructure Levy.

#### **Overall Conclusions**

87. The proposal would not accord with the provisions of LDP Policies SP5 and CW15 because it involves a large-scale residential development outside the defined settlement limits in the LDP. In terms of the approach to the detailed consideration of active and social places under PPW, the proposal has been subject to detailed scrutiny for compliance in terms of housing supply, transport, recreational spaces and community facilities. In relation to distinctive and natural places, the effect on biodiversity, green infrastructure, the historic environment and the landscape have all been assessed. I have considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WCFG Act"). In reaching this decision, I have taken into account the ways of working set out at section 5 of the WCFG Act. Compliance with the guidance in PPW, which is based on the WCFG would contribute towards the Welsh Ministers well-being objectives set out as required by section 8 of the WCFG Act.
88. Taking these duties into account, I conclude that the proposed development would accord with the placemaking principles of PPW and would constitute sustainable development. The other adverse impacts claimed by objectors have been properly considered. The evidence has demonstrated that the proposal would not have significant effects on transport or highway safety, nature conservation or local

infrastructure provision. Residual effects can be remedied by the imposition of the suggested planning conditions.

89. I have set out the benefits of the proposal above. Chief of these is the contribution of the proposal to the HLS in an area where there has been a large shortfall in HLS that has persisted for 9 years. The housing and affordable housing need identified in the LDP up to 2021 will not be met; as only around 50% of the necessary housing has been provided. Taking all these factors into account, I conclude that significant weight should be attached to the need to increase housing land supply.
90. The site is in a sustainable location on the edge of the urban area of Blackwood (a designated Principal town in the LDP). The provision of affordable housing in accordance with the LDP and other benefits are secured by the submitted s.106 obligations. I afford these obligations considerable weight. I conclude that the need for the development and the benefits it would bring outweigh the conflict with the LDP policies SP5 and CW15.

### **Recommendation**

91. For the reasons given and having considered all the evidence, I recommend that the appeal be allowed, and that planning permission is granted subject to the conditions set out in Annex A.

*A L McCooey*

**Inspector**

## **Appearances**

### Appellant

Mr Charles Banner QC instructed by Persimmon Homes

Mr Paul Williams BSc (Hons) Dip CRP                      Planning Witness of Savills

### Local Planning Authority

Mr Robin Green of Counsel instructed by the Solicitor to the Council

Cllr Andrew Whitcombe

*For informal discussions on conditions and s106 agreement*

Mr Christopher Boardman MSc                              Planning Team Leader

Mr Richard Crane    Senior Solicitor

### Interested Parties

Cllr Nigel Dix

Cllr Graham Simmonds

Mr Royston Williams    Local resident

## **Documents referred to in the report**

### Written Statements of Evidence

APP2 Written Statement (and Summary) of Paul Williams – Planning Witness

APP3 Written Statement of Andy Roberts – Transport Witness

APP4 Written Statement of Carmen Jones – Ecology Witness

APP5 Closing statement on behalf of the Appellant

SOCG Statement of Common Ground between the Council and the Appellant

LPA1 Written Statement of Cllr Andrew Whitcombe

LPA2 Closing statement

Agreed List of Conditions

### Documents received at the Inquiry

INQ1 Photographs from Mr Royston Williams (objector)

INQ2 Appellant's Revised Table of Housing Sites in response to Local Planning Authority

INQ3 Letter from NRW 2 October 2019

INQ4 Cabinet Report of Caerphilly CBC Response to the draft NDF

### Objection Letters of those that took part in the Inquiry

OBJ1 Letter of Cllr Dix (with attachments)

OBJ2 Letter of Mr Royston Williams

### Appeal Decision referred to in Report

Appeal Ref APP/T6905/A/17/3188913 against the decision of Conwy CBC

## **ANNEX A SUGGESTED CONDITIONS**

**Appeal Ref: APP/K6920/A/19/3226294**

- 01) Details of the access, appearance, landscaping, layout and scale of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before development is commenced and shall be carried out as approved.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 02) Plans and particulars of the reserved matters referred to in Condition 01) above, relating to the access, appearance, landscaping, layout and scale of the development, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 03) Any application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 04) The development hereby permitted shall begin either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and planning permission is granted on the basis of an urgent need for additional housing.

- 05) Prior to the commencement of works on site a scheme of land and surface water drainage within the site shall be submitted to and agreed in writing by the Local Planning Authority. All works that form part of the agreed scheme shall be carried out before any part of the development to which it relates is occupied.

REASON: To ensure the development is served by an appropriate means of drainage in accordance with Policy CW5 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 06) Prior to the commencement of development a timescale for the improvement of the potable water supply in the locality of the development shall be submitted to and agreed in writing with the Local Planning Authority. The required improvements shall be completed in accordance with this agreed scheme.

REASON: To ensure the site is served by a suitable potable water supply in accordance with Policy CW5 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 07) The means of access serving the proposed development from Heol Pit Y Ceiliogod and Beaumaris Way shall be laid out, constructed and maintained thereafter with visibility splays of 2.4m x 43m. the visibility splays shall be maintained free of any obstruction or planting exceeding 0.9m in height above the adjacent footway for as long as the development exists.

REASON: In the interests of highway safety in accordance with Policy CW3 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 08) There shall be no pedestrian or vehicular access onto or from any individual residential property onto or from Heol Y Cefn.

REASON: In the interests of highway safety in accordance with Policy CW3 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 09) Prior to the occupation of the first dwelling a residential travel plan shall be submitted to and approved by the Local Planning Authority and thereafter implemented in accordance with the timescales contained therein.

REASON: To promote sustainable forms of transport in accordance with Policy CW1 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 10) Notwithstanding the submitted plans, as part of the reserved matters submission, full engineering details of the off-site infrastructure improvements detailed below, and the timing of their implementation shall be submitted to and approved in writing by the Local Planning Authority. These infrastructure improvements shall include:-

- Road junction improvements to the A4049 Pengam Road/unnamed lane (referred to locally as Harrys Hill);
- Proposed village 'Gateway' feature on Heol Y Cefn with appropriate road markings and signage;
- Footway improvements to Heol Pit Y Ceiliogod and Beaumaris Way by way of pedestrian crossing provision;
- Proposed new bus stop and shelter located on Heol Pit Y Ceiliogod.

The improvements shall be completed in the timescale agreed in writing with the Local Planning Authority.

REASON: In the interests of highway safety in accordance with Policy CW3 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 11) Prior to the submission of the reserved matters application, and prior to commencement of any works onsite (including any vegetation clearance) a Strategic Green Infrastructure Management Strategy (SGIMS) for the delivery and ongoing management, maintenance and monitoring of green infrastructure comprising the ecological, arboricultural, landscape, soil, open space and SUDS and water resource other than privately owned domestic gardens for the site for the construction and operational phases and longer term (the lifetime of the development) shall be submitted to and approved in writing by the Local Planning Authority. The SGIMS shall include details and an implementation programme for the delivery of green

corridors and dark corridors which shall include plans and outline details of habitat composition and layout, the location of new and retained planting required to reach the size and scale of retained / proposed corridors, the phasing of that provision, details of eco zones and buffer zones to protect the green corridors, outline lighting principles and cross sections showing how 'dark corridors' can be achieved over road crossings.

The approved SGIMS, and any subsequent amendments, shall be implemented in accordance with the approved details and programme for Implementation.

REASON: To ensure proper measures are taken to safeguard the habitat of bats and in the interests of biodiversity in accordance with Policy CW4 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 12) Prior to the commencement of development a detailed lighting scheme and implementation plan to control light spillage to any 'dark corridors' and other 'sensitive receptors' identified in the approved SGIMS (under condition 13) shall be submitted to the local authority for their written approval. The scheme shall include details of the siting and type of lighting to be used, their technical specifications, contour plans showing light spillage and cross sections of green corridors where they intersect with roads, footpaths and adjacent properties, detailing green infrastructure and lighting proposals, and operational measures to ensure appropriate lighting including the timing and extent of any dimming. The development shall be carried out in accordance with the approved details and maintained thereafter for the lifetime of the development.

REASON: To ensure adequate protection for protected habitats and species in accordance with Policy CW4 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 13) No trees or hedgerows within the site shall be removed prior to the approval of the reserved matters application.

REASON: To ensure adequate protection for protected habitats and species in accordance with Policy CW6 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 14) The reserved matters details to be submitted shall include an updated bat species roost and transect survey to inform the reserved matters application in accordance with Policy CW4 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

REASON: To ensure up to date consideration of protected species, in the interests of biodiversity species in accordance with Policy CW4 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 15) The reserved matters details to be submitted shall include a detailed reptile mitigation strategy prepared by a competent ecologist to inform the reserved matters application. The approved mitigation strategy shall include any translocation or mitigation measures and shall be complied with.

REASON: To ensure reptiles are protected species in accordance with Policy CW4 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 16) Site clearance operations and any site works that involve the destruction and removal of vegetation, including felling, clearing or the removal of trees and shrubs or hedgerows within the proposed site shall not be undertaken during the months of March to August inclusive in any given year, unless approved in writing by the Local Planning Authority.

REASON: To ensure that breeding birds are protected. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 species in accordance with Policy CW4 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 17) Notwithstanding the submitted master plan details shall be submitted at reserved matters that shall take into account the need to provide appropriate leisure facilities to meet the needs of the residents of the proposed development. Those facilities shall include areas of well-designed open space that benefit from good access and surveillance, a suitably sized equipped play area and a suitably sized all weather sports court.

REASON: To comply with policy CW10 of the Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

- 18) Prior to the commencement of the development hereby approved, a construction phase noise scheme (to include proposed working hours) shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the scheme shall be implemented as agreed.

REASON: To control noise arising from the construction of the development in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 19) Prior to the commencement of the development hereby approved, a construction phase dust mitigation scheme shall be submitted to and agreed, in writing, with the Local Planning Authority. Thereafter the scheme shall be implemented as agreed.

REASON: To control any dust arising from the construction phase in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 20) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.

REASON: To prevent contamination of the application site in the interests of public health in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 21) No development or site clearance shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

REASON: In the interests of the visual amenity of the area in accordance with Policies CW2 and CW6 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 22) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: In the interests of the visual amenity of the area in accordance with Policies CW2 and CW6 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 23) A Landscape Management Plan, including
- (a) long term design objectives,
  - (b) management responsibilities, and
  - (c) maintenance schedules for all landscape areas, other than domestic gardens;

shall be submitted as part of the reserved matters submission. The Landscape Management Plan shall be carried out as agreed.

REASON: To ensure that the landscaping is maintained in the interests of the visual amenity of the area in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 24) No building approved by this permission shall be occupied until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.

REASON: To protect public health in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

- 25) No less than 20% of the residential units hereby approved shall have provision for the installation of electric charge points for vehicles.

REASON: To promote less polluting forms of private travel in accordance with Policy SP6 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

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

- Site Location Plan, received 07.08.2018;
- Drawing No. AM-01, Access & Movement (excluding Layout), received 21.08.2018;
- Travel Plan received 07.08.2018.

REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

- 27) No development shall take place on any phase (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) relevant to that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be produced in accordance with BS42020:2013 and include the following:
- a. Risk assessment of potentially damaging construction activities;
  - b. Identification of "biodiversity protection zones";
  - c. Practical measures (both physical measures and sensitive work practices) to avoid or reduce impacts during construction;
  - d. The location and timing of sensitive works to avoid harm to biodiversity features;
  - e. The times during construction when specialist ecologists need to be present on site to oversee works;
  - f. Responsible persons and lines of communication;
  - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similar competent person;
  - h. Use of protective fences, exclusion barriers and warning signs.
  - i. The works shall be carried out in accordance with the approved CEMP and shall be adhered to for the duration of the construction period of that phase.

REASON: To ensure adequate protection for protected habitats and species in accordance with Policy CW4 of the Caerphilly County Borough Local Development Plan up to 2021- adopted November 2010.

End of Conditions