

APPENDIX – DOCUMENTS EXHIBITED TO THIS PROOF OF EVIDENCE (NB no list of core documents has been prepared by the LPA/Appellant)

No.	Date	Document
1.	09.07.19	Letter from Boyer Consultancy to RPS pre-appl consultation
2.	09.07.19	Letter from Hawkeswood Ecology to Boyer Consultancy
3.	July 2019	Review of Landscape and Visual Appraisal by Viridian Landscape
4.	July 2019	Review of Sustainable Drainage Assessment by Stanec
5.	01.10.19	The Woodland Trust/Coed Cadw's comments on old trees on Stevens' land
6.	01.10.19	Letter from Boyer Consultancy on Draft Supplementary Planning Guidance August 2019
7.	03.10.19	Local Planning Authority's Conservation Officer objection and recommendation of refusal
8.	25.10.19	Letter from Boyer Consultancy to Vale of Glamorgan Council ("VoG")
9.	09.04.21	Letter from Boyer Consultancy to VoG – additional representations
10.	12.07.21	Letter from Boyer Consultancy to VoG – additional representations
11.	17.09.21	Appendix 2 to Boyer letter – Audit of LVA by Viridian Landscape
12.	Oct 2019	Appendix 3a to Boyer letter – Review of Preliminary Ecological Appraisal by Hawkeswood Ecology
13.	24.10.19	Appendix 3b to Boyer letter – Response to RPS Species Surveys
14.	20.05.21	Local Planning Authority's Ecology Officer holding objection and request for further information
15.	17.02.22	Letter from Boyer Consultancy to VoG – additional representations
16.	14.06.21	Local Planning Authority's Ecology Officer note for applicant
17.	26.05.22	The Woodland Trust/Coed Cadw's comments on the application
18.	15.11.22	Local Planning Authority's further comments on the application by email

19.	20.12.22	Letter from Boyer Consultancy to VoG – additional representations
20.	Feb 2023	VCU Report and emails to Planning Committee
21.	01.03.23	Letter from Boyer Consultancy to VoG – additional representations
22.	13.02.24	Letter and Form from Boyer to VoG re Replacement Local Development Plan 2021-2036 Preferred Strategy Representations
23.	19.12.24	Letter from Boyer Consultancy to PEDW

9^h July 2019
Our Ref: LF/MG/19.8060

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Dear Rhian,

Land at Model Farm, Port Road, Rhoose Parc Busnes Porth Cymu – Pre-Application Consultation (PAC) Response

On behalf of our clients, The Stevens Family of The Old Rectory, Porthkerry, Boyer is pleased to provide comments in relation to the statutory Pre-Application Consultation (PAC) exercise concerning a proposed business park and associated infrastructure on land at Model Farm, Port Road, Rhoose.

Background

An outline planning application has been prepared by RPS Group on behalf of Legal and General in support of a 45ha Business Park on land at Port Road, Rhoose, adjacent to Cardiff Airport. The application comprises the demolition of the existing Model Farm site, including farmer's residence, and the erection of Class B1/B2 and B8, together with associated car parking, landscaping, drainage infrastructure, biodiversity provision and ancillary works.

The Old Rectory (formerly the Egerton Grey Country House Hotel) is located to the south-east of the LDP Policy SP2 allocation and is accessed off Porthkerry Road down a narrow lane, which is highly rural in character. Whitelands Brook and Bullhouse Brook flow directly behind The Old Rectory and converge to the east of the dwelling within The Old Rectory grounds. These are largely surrounded by mature tree belts and hedgerows. Although the south-eastern boundary of Cardiff Airport is around 300m to the west of The Old Rectory, it is entirely screened from views by the surrounding topography and an existing bund along the airport perimeter.

Porthkerry Country Park sits to the south and east of the application site, while the land surrounding The Old Rectory is proposed to form an extension to the country park. As such, there are serious implications that must be considered given the private ownership of The Old Rectory and the proximity to the application site.

Due to our concerns, preliminary assessments of the application documentation have been undertaken by third party, technical consultants in relation to the following matters:

- Landscape,
- Ecology; and
- Flood Risk and Drainage.



Landscape

The land to the north of the application site, known as Nant Llancarfan, is designated as a Special Landscape Area (SLA) in the adopted Vale of Glamorgan Local Development Plan. In addition to this, a number of designated heritage sites are within a 1km radius of the application site. These include nine Grade II listed buildings and structures, three Grade II* listed buildings, two Conservation Areas and a number of non-designated heritage assets identified in the Vale of Glamorgan Council's County Treasures List. There are also several Scheduled Ancient Monuments (SAMs) within the 1km radius.

An independent review of the Landscape Visual Assessment (LVA) has discovered inconsistencies, omissions and inaccuracies within the report that do not provide a clear assessment or mitigation measures for the proposed development, together with failing to provide information that the executive summary claims that the LVA will provide.

The methodology that was used to undertake fieldwork does not appear to follow usual practice. Despite the fieldwork being carried out in early summer 2019 when there were leaves on the trees, and so visual screening at its greatest, it seems unusual that only professional judgement has been used to anticipate the likely visibility in winter. Without direct evidence, it is therefore not possible to robustly assess the existing baseline during winter, that is, the worst-case scenario.

There are several conflicting assessments between the effects on various landscape elements, visual receptors and representative viewpoints. From the LVA, it is clear that a detailed analysis of the effects has not been undertaken, but rather the report provides an assessment of the existing landscape only.

Moreover, there are several omissions from the report, most notably, some viewpoints from around the site have not been accounted for, *including The Old Rectory* which, due to the surrounding topography, is considered highly sensitive in terms of potential landscape and visual impacts. As the central, focal point of the proposed extension to Porthkerry Country Park, it is inconceivable that landscape and visual impacts at this location have not been thoroughly assessed.

Along with omissions and inconsistencies within the report, there are also inaccuracies of the assessments provided. Within the LVA, the Assessment of Landscape Character refers only to the Rhoose Hinterland Visual and Sensory Aspect Area. There is no mention of the further four Areas that fall within the visual envelope of the Proposed Development. Moreover, the Landscape Designations in and around the site are also incorrectly reported within the assessment.

Furthermore, the LVA states that the description of the proposed development as being seen "against a background of built development on the skyline" which is wholly inaccurate as the majority of the application site bounds open countryside. On this basis, concluding statements are at odds with the information provided as comments and assessments for each of the predicted effects of the proposed development. Therefore the report has been unable to provide a comprehensive assessment of the wider impact of development on local landscape character.

Consequently, it is considered that the LVA is not sufficiently robust to accurately inform the likely effects of the proposals on landscape and visual receptors.

Ecology

In terms of ecology, it is considered that the submitted ecological appraisal is lacking in detail, particularly in relation to survey information of protected species, such as bats and badgers. Reporting of species is limited to records from the previous five years, thereby disregarding historical data, while bat records in particular are notably insufficient to reach any firm conclusions.

Hawkeswood Ecology carried out initial transect surveys at The Old Rectory Site on 4th July 2019. In addition, static recording devices had been placed on boundary features of The Old Rectory from 1st to 4th July 2019. Currently, only an initial assessment of findings has been produced and further analysis is required to complete the data set. However, initial information shows that species of bats recorded were:

- Common pipistrelle;
- Soprano pipistrelle;
- Noctule;
- Brown long-eared;
- Myotis species (initial analysis suggests Daubenton's and whiskered);
- Serotine; and
- Lesser horseshoe.

Further analysis of data recorded is ongoing and will be provided at a later date. Initial findings, however, show that key activity was near the wooded area at the northern boundary of the fields and along the site boundaries and along Whitelands and Bullhouse Brooks. Additionally, slow worms have been observed on-site while eels have been discovered within the brooks, which could be significantly impacted by any changes to the water quality of runoff from the development.

This is therefore highly suggestive of a wider presence of protected biodiversity within both the area immediately adjacent to the proposed development, as well as the application itself. Consequently, it is considered that further information and detail is required in order to make an informed conclusion regarding the likely impacts of the proposed development upon protected species and wider ecological assets.

Flood Risk and Drainage

Whilst it is appreciated that the proposal is outline at present, there is still a necessity to provide further detail and information in order for the scheme to be wholly compliant with the Sustainable Drainage Systems Standards For Wales.

In terms of compliance with the SuDS Standards, there is a requirement for calculations to be provided to determine the sizing of each of the proposed rainwater harvesting tanks, together with the re-assessment of the sizing of the attenuation basin. It is also necessary to provide the sizing of the permeable parking bays required to ensure that the first 5mm of rainfall events is 'intercepted'. It is considered critical that these further calculations are undertaken as the design of the scheme progresses.

It is also noted the hydraulic calculations relevant to the attenuation basins are not commensurate with the guidance contained within Standard S2, as it does not entirely satisfy the criteria to protect the

morphology and ecology of and prevent an increase in flood risk. On this basis, it is likely that to achieve the requirements of this Standard, the size of the attenuation basin features would need to be greater than reported by RPS, and as such, is not compliant with the second and third requirement of Standard S2.

We note that Welsh Water has been consulted who stated that the local foul water sewer system itself has insufficient capacity to accept the foul water from the site without causing foul water flooding issues elsewhere. Moreover, the proposed Preliminary Drainage Strategy shows a proposed foul water sewer that passes through The Old Rectory grounds, that is, land personally owned by our client and outside of the control of the applicant. To date, our client has not been approached by the applicant in terms of agreeing this approach.

Consequently, the currently proposed foul drainage scheme is unfeasible and cannot be implemented without our client's consent. Furthermore, the proposed location of the foul drain down steeply-sloping land and within the centre of an agricultural field (which would become a new country park as part of the proposals) makes no reasonable allowance for regular access and maintenance by Welsh Water, which would be prohibitively impractical with part of the drain ca. 200m from the nearest highway at its furthest point.

The scheme must therefore be unequivocally revised in order to deliver a drainage design is viable in terms of available land access constraints. It is also prudent that the SuDS adoption and maintenance arrangements for the proposed mixed employment development are finalized at the earliest opportunity, together with the foul water disposal arrangements.

Above all, it is clear that further calculations and details are provided in order to ensure full compliance, though it is expected that these would be undertaken as the design of the scheme progresses. Re-assessment is also required of the attenuation basin features as it is unlikely that the scheme would be compliant with SuDS Standard S2, together with initial guidance on the should be provided. Further guidance for the likely surface water exceedance routes and implications of potential failure scenarios should also be provided.

I trust that these comments will be duly considered by the applicant and accordingly, that the proposals will be substantially reconsidered.

Yours sincerely,

Michael Gooch
Senior Planner

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Encs: LVA Review Report and Appendices (Viridian Landscape)
Ecology Initial Findings (Hawkeswood Ecology)
Sustainable Drainage Assessment Review (Stantec)

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09/07/2019

Our Ref: HE/15/2019

Dear Michael,

The Old Rectory and Model Farm

Following our instruction from Heather and David Stevens, we are in a position to make initial comments on the following:

- The Preliminary Ecological Appraisal (PEA) produced by RPS Group PLC in relation to the proposed development at Model Farm;
- Our initial findings with regard to bats and bat activity on the land and boundaries of The Old Rectory.

We need to stress that the comments made below are made in the light of initial assessments of the provided report and related documents and that at this stage we have not had an opportunity to visit the wider Site that is discussed. Therefore our comments relate purely to the findings as given in the PEA with no field work undertaken at this stage.

In relation to the findings of the initial bat survey we have carried out in the grounds of the Old Rectory, the timescale we currently have has not allowed full analysis of the recordings made. We are fairly confident in the initial findings however further analysis will be necessary to define some animals to species level if possible. Due to the preliminary nature of this survey, we do not consider this to be a major constraint, and the findings will add to the knowledge of the area and be of use in defining any mitigation proposed in the proposed development and Country Park should the plans go forward.

We are also aware of an earlier PEA report produced by Richard Pryce which looked at the current survey area in 2012. At this stage we have not carried out a full assessment of this report or a comparison of findings between the two surveys.

Our general impression of the RPS report is that it is a satisfactory piece of work but is lacking in detail, particularly in the Target Notes which are over brief and do not fully describe the habitats or buildings discussed. Production of reports and the details within vary from company to company, any comments here are not specific criticisms of RPS and the work produced, but aimed at selecting areas where further information could or should have been supplied or querying elements of the findings where apparent or implied omissions need further clarification. It is also pertinent to say that we are not privy to the instructions received by RPS Group PLC which are likely to have dictated the survey and its reporting.

Paragraph 2.6 comments on the size of the Site being too large to '*undertake a comprehensive search for protected and notable species in one visit*'. However, it is the responsibility of the client to ensure the survey is to a standard that will allow the necessary information to be gained and a constraint limiting survey time is possibly not appropriate in the case of such a large scale development.

We are surprised at the reporting of the Priority and Protected Species in paragraph 3.5 and Table 4. Reporting of species is limited to records from the previous five years. This will certainly include some important species and it is difficult to understand this limit as it certainly does not only remove historical data, but probably live data most likely including the findings of Richard Pryce's 2012 report.

Of particular note is the paucity of bat records reported. A known roost of lesser horseshoe bats lies approximately 2.5 kilometres from the nearest point of the proposed development Site (SEWBRc, the local records centre, include data from 'mobile' species outside the buffer and this almost certainly would have been indicated) and Richard Pryce indicated the presence of three species of bats, lesser horseshoe and common and soprano pipistrelle in surveys undertaken in March 2012 (the timing of the surveys was duly constrained in that report). The Richard Pryce report also refers to a further eight species indicated in their desk top study that could occur in the locality of the Site.

The Survey findings are brief and it is noted that the section on hedgerows doesn't clarify whether any meet the Hedgerow Regulations (1997) or if further survey will be necessary; in particular, the introductory paragraph to hedgerows, paragraph 3.15 seem to be a little ambiguous as to their worth.

In discussion of protected species (Section 4) the potential of the Site to support protected species is made clear as in the requirement for further information. This is particularly key to the decision making process and it is considered that an informed decision in regard to the development taking place cannot be made without new specific survey data being provided.

In relation to Habitats (Section 4), the value of the semi-natural woodland is highlighted, although the inclusion of enchanter's nightshade as an ancient woodland indicator is questionable and their retention with a suitable buffer is recommended.

With regard to hedgerows, reference is made to their importance for connectivity, further survey is recommended.

Section 5 recommends a number of further surveys and we consider these generally reflect the species most likely to be found on Site and are commensurate with the size of the development proposals.

The Target Notes are particularly brief and do not contain detail. It seems that only a selection of hedgerows has been target noted and full picture of the Site has not been presented. The reference to bat roost potential is difficult to understand as the rationale has not been fully explained, there is no methodology for protected species searches in general. If findings are to be reported, the selection criteria and methodology used should be reported. From the photographs, we would consider that some of the trees in particular, have been possibly incorrectly categorise if the Bat Conservation Trust Guidelines are being used; assessment of bat roost potential is at best subjective, however, it would appear from the photographs that a number of trees are probably of high potential for supporting roosting bats.

Initial Bat survey findings at The Old Rectory

Hawkeswood Ecology carried out initial transect surveys at The Old Rectory Site on 4th July 2019. In addition, static recording devices had been placed on boundary features of The Old Rectory from 1st to 4th July 2019. Currently, only an initial assessment of findings has been produced and further analysis is required to complete the data set.

Transect Survey

The weather conditions at the time of the transect surveys was find with temperatures around 20°C at the start (21.20 hours) to 16°C at conclusion, 23.30. There was no wind; it was humid, clear and with good visibility. Two transects were walked which took in the west and east of the house and included gardens, fields and wooded areas. The Transect routes are shown in Figure 1. Key activity in both cases was near the wooded area at the northern boundary of the fields and along Site boundary's and along the streams.

Species recorded were:

Common pipistrelle

Soprano pipistrelle

Noctule

Brown long-eared

Myotis species (initial analysis suggests Daubenton's and whiskered)

Serotine.

In addition a record is being sent to referee as possible greater horseshoe social calls, however, this is considered unlikely and the recordings may be invertebrates.

Before the transect survey commenced, pipistrelle bats (both common and soprano) were noted emerging from a location near the house front door. 47 bats were counted emerging before the transect survey commenced. Emergence started at 21.05, nearly 30 minutes before sunset and this suggests that this may be a large roost; a full count was not undertaken. In addition, a further 4 common pipistrelle were seen emerging from the roof apex towards the rear of the building.

Static Detectors

Four Anabat Express machines were placed as shown in Figure 1. Three were placed on the northern boundary of The Old Rectory, and the fourth on a stream line adjacent to woodland to the immediate east.

The machines recorded over the nights of the 1st, 2nd and 3rd July giving three full nights recording, dusk to dawn.

At this stage a break-down of activity has not been completed but initially, differences in findings between the three machines to the north and the one to the east have been seen. The machine near the stream and woodland to the east (location 4 on in Figure 1), recorded a large number of Myotis passes and was the only machine to do so. Machines at locations 1, 2 and 3 all recorded lesser horseshoe bats. The most frequently recorded species were common and soprano pipistrelle and noctule, which was seen foraging constantly over the northern fields during the transect survey.

Species recorded were:

Common pipistrelle

Soprano pipistrelle

Serotine

Brown long-eared

Lesser horseshoe

Myotis species (probably whiskered bat)

General comments

We have been informed that slow worms have been identified from the Site. All British reptiles are protected against killing and injury and sale by the Wildlife and Countryside Act 1981 (as amended) as Schedule 5 (Section 9.1 and 9.5) species. They are also a UK Biodiversity Plan Priority Species.

We are also informed that eels have also been recorded from streams on Site. European eels are now critically endangered and should be considered in the formulation of the project.

I hope you find this useful and helpful at this stage. If you have any further queries now please do not hesitate to contact me.

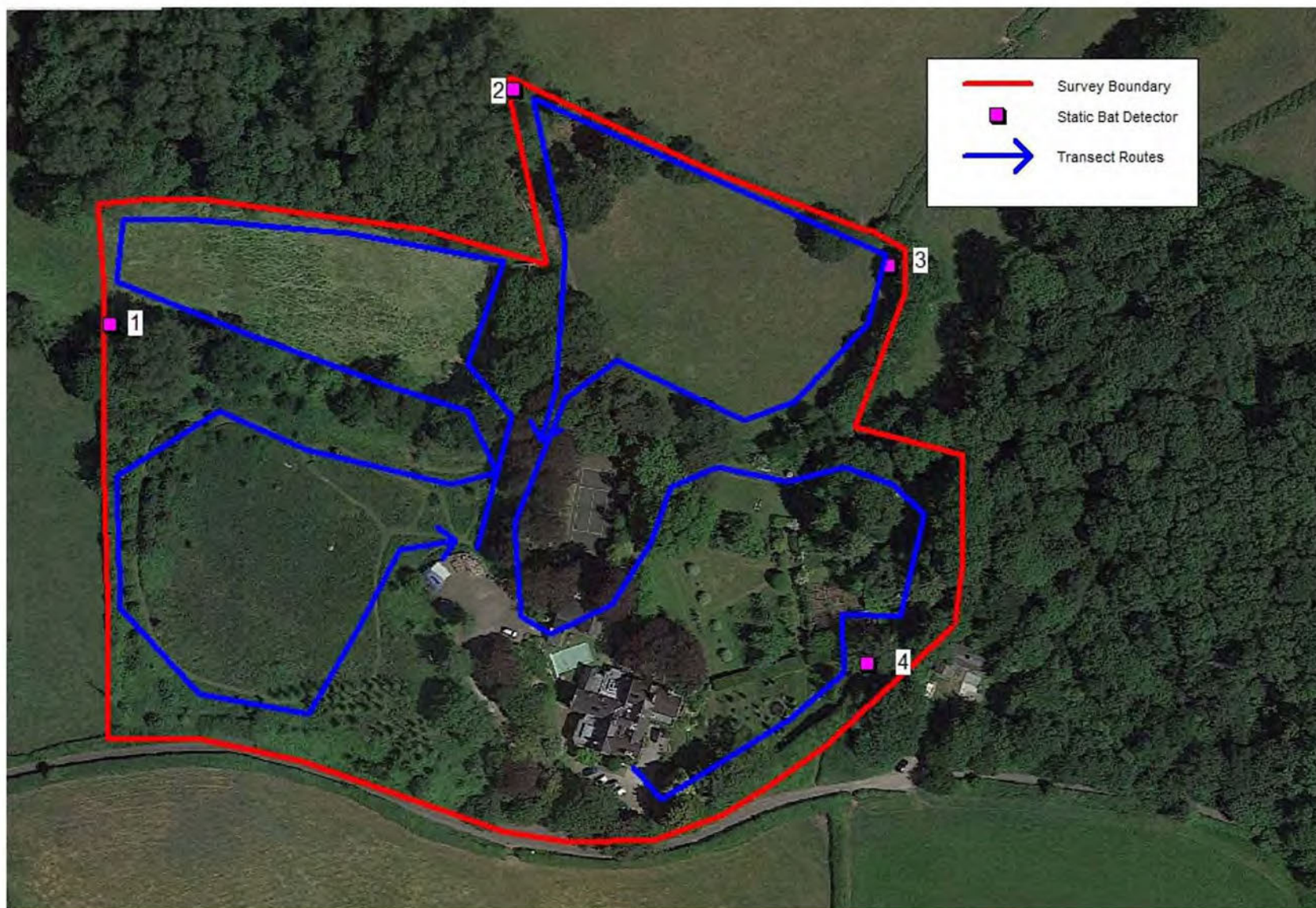
Yours Sincerely



Eric Hawkeswood
Principal Ecologist



FIGURE 1
LOCATION OF STATIC MACHINES AND TRANSECT SURVEY





Land at Model Farm, Rhoose

Review of Landscape and Visual Appraisal prepared by RPS for Legal and
General

July 2019

On behalf of Mr D and Mrs H Stevens

Land at Model Farm, Rhoose

Review of Landscape and Visual Appraisal prepared by RPS for Legal and General

Final

Project no. 2756

July 2019

	Name	Position	Signature	Date
Prepared by:	Nigel Evers	Director		04/07/19
Reviewed by:	Lindsey Evers	Director		04/07/19

#

Revision	Description	Prepared	Reviewed	Date
A	Minor text additions	NJE	LAE	09/07/2019



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VIEWPOINT PHOTOGRAPHS AND VISUALISATIONS

L1: Viewpoint Location Plan

Visualisations VLP-A, B, C, E and G

Viewpoint Photographs VLP-D and F



1 INTRODUCTION

1.1 BACKGROUND

- 1.1.1 Viridian Landscape Planning was commissioned in June 2019 to undertake a review of the Landscape and Visual Appraisal prepared by RPS, which considers the potential landscape and visual effects of development of a business park on land at Model Farm, Rhoose, adjacent to Cardiff Airport.
- 1.1.2 According to the Planning Statement produced by RPS in June 2019, the proposals are for a 45ha business park, with car parking, landscaping, drainage infrastructure and biodiversity enhancement. It will consist of offices, light Industrial, warehousing and distribution.
- 1.1.3 The site is allocated within the Local Development Plan for employment uses under Strategic Policy SP2 and Development Management Policies MG9 and MG10.

1.2 SCOPE OF REPORT

- 1.2.1 This report has been prepared by chartered landscape architects at Viridian Landscape Planning.
- 1.2.2 Its objectives are to:
- review the LVA to determine whether it follows its stated methodology and current guidance, whether the selected viewpoints are representative, and the assessments of landscape and visual effects are reasonable, including effects on the character of the site;
 - visit the site, comparing the representative viewpoints with their descriptions in the text, if necessary, undertaking alternative assessments and taking additional photographs if we consider that any of the LVA viewpoints are not appropriate.
 - prepare a report containing our critique and, where necessary, setting out our alternative assessments and viewpoints and any information that we believe to be necessary to understand the landscape and visual effects.
- 1.2.3 This review accepts that within the guidance set out in Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA 3), there is a certain amount of flexibility in how a landscape assessor should approach such work, and it is not the role of this review to criticise the LVA for following a particular approach or to undertake a forensic analysis of the LVA.
- 1.2.4 The site and the surrounding area were visited on 26 June 2019 to gain an understanding of the landscape and visual issues associated with the site and its context.



1.3 THE SITE AND ITS CONTEXT

1.3.1 According to paragraph 4.4 of the LVA:

The Application site comprises irregular shaped arable and pasture fields bounded by predominantly low hedgerows with occasional hedgerow trees. There are blocks of small woodland and small wooded valleys of Whitelands Brook and Bullhouse Brook to the south running down to Porthkerry Country Park.

And at 4.5:

The infrastructure of Cardiff Airport dominates the landscape and lies immediately to the west of the Application Site. A hotel is located at the junction of Porthkerry road on the western boundary of the Application Site and Port Road which forms the northern boundary.

1.3.2 At 4.18, the LVA describes the application site as being:

located on gently sloping land 70 to 50m AoD which faces south towards the coast which is less than 1.2km away at its closest point. The surrounding landscape is classified as rolling lowland in the Visual and Sensory Aspect Area with wooded lowland valleys to the south. The east to west valley associated with the River Waycock approximately 0.9km to the north. However, the land generally rises travelling north of the Application Site to approximately 90m AoD near Whitton Rosser Farm close to the northern boundary of the Study Area.



2 LVA METHODOLOGY

- 2.1.1 The LVA includes a Detailed Assessment Methodology at Appendix A. As there are no page or paragraph numbers in the Methodology, the comments below refer to section headings.
- 2.1.2 The list of published guidance at the beginning of the Methodology differs from the list at 2.1 of the LVA and refers to guidance for Scotland, not Wales.
- 2.1.3 Study Area: the second sentence in this paragraph is interrupted by a list of references to GLVIA3, which perhaps was intended to be placed elsewhere.
- 2.1.4 Table 1: Overall sensitivity of landscape receptors, needs to state 'HIGH', 'MEDIUM' and 'LOW' categories for Susceptibility. Below this, the reference to Table 1 should be to Table 8.
- 2.1.5 Effects on Visual Amenity: the first sentence is interrupted by a date and page reference, which is not explained. The paragraph ends with 'Sensitivity of Visual Receptors', which should be a sub-heading to the next section.
- 2.1.6 There is no table of criteria for assessing the value of views, equivalent to Table 2: Criteria for assessing landscape value.



3 EXECUTIVE SUMMARY/SECTION 12: SUMMARY AND CONCLUSIONS

- 3.1.1 The Executive Summary is repeated at the end of the document as Section 12: Summary and Conclusions. In both instances it refers to:
- Nant Llancarfan Special Landscape Area (SLA) located less than 100m north of the site and to Porthkerry Country Park, which is also locally designated as a Green Wedge, on the southern site boundary, but neither are shown on a plan in the LVA;
 - '*...land to be transferred to extend Porthkerry Park*'; but this is not identified on the Indicative Concept Masterplan (ICM);
 - '*...extensive areas of new native planting along the eastern boundary...*', but these are not identified on the ICM; and
 - '*Landscape mitigation measures...along the southern boundary...*', Mitigation along the southern boundary shown on the ICM seems to comprise only one area of '*proposed landscaping*' linking existing tree belts and hedgerows.
- 3.1.2 As a result, it is not possible for the reader to have a clear idea of the landscape setting of the site, nor of the mitigation proposed.



4 REPORT TEXT

4.1.1 At 1.7, the report states that

'mitigation measures, which form an integral part of the Proposed Development, are also described [in the LVA] together with how these measures are likely to prevent, reduce or offset any perceived adverse effects.'

4.1.2 It then refers to the ICM. However, the mitigation measures are not described in the text, apart from a mention at the end of the Executive Summary which says the they include extensive woodland, tree and hedge planting along the southern boundary; nor is it explained how they prevent, reduce or offset any adverse effects. As noted in 2.1.1 above, very little mitigation is shown on the ICM.

4.1.3 At 1.8 of the report it states that assessments are made at Year 1 in winter and Year 10 in summer. These years are mentioned in 10.15, where visual effects on short-range viewpoints are summarised, but no reference to these assessment years is made elsewhere, even in Table 3 which details effects on viewpoints. There is no mention of Year 1 or 10 in relation to any other viewpoints or any landscape effects.

4.1.4 At 10.15 it states that effects are the same at Year 1 and at Year 10, suggesting that mitigation measures will not be effective.

4.1.5 The list of relevant guidance at 2.1 of the report differs from the list in the Methodology which refers to guidance for Scotland, not Wales.

4.1.6 The ZTV is explained at 3.3, stating that barriers were modelled at 12m for significant vegetation and at 9m for built form; it goes on to say that five *'origin points have been used to represent the parameters of the Proposed Development...'* but it does not state their height. Notes on the ZTV plan say *'...using the top height of 5 buildings within the proposed development...'*, but does not say what those heights are.

4.1.7 At 3.6 it says that ten viewpoints were proposed, then the Council proposed an additional 12 viewpoints, which are listed. It goes on to say that fieldwork confirmed the selection of 15 viewpoints used. Some of these seem to be from the Council's list, including viewpoints 10, 11 and 15, but this is not clear in the report.

4.1.8 At 3.11 it states that the fieldwork was carried out in late spring/early summer 2019 when there were leaves on the trees, so professional judgment was used to anticipate the likely visibility in winter (Year 1). This is an unusual methodology, as the assessment would normally be made at the time the fieldwork was carried out, and it makes the assessment of effects more subjective.

5 LANDSCAPE EFFECTS

- 5.1.1 At 7.2 the effect on site topography is stated as Medium magnitude, resulting in a Moderate effect. This is inconsistent with the results on Table 1 which shows Low magnitude, resulting in a Minor effect.
- 5.1.2 Table 1 is a summary of effects on landscape elements, Table 3 is a summary of effects on visual receptors and representative viewpoints, but there is no Table 2 for effects on landscape character.
- 5.1.3 Section 8 is headed 'Effect on Landscape Character', but it is largely an analysis of existing landscape character. A comment on the predicted effects of the Proposed Development are added for Landform and Enclosure, Settlement pattern and Tranquillity, but not for Skylines or Intervisibility.
- 5.1.4 8.1 concludes that '*As the proposed development would fit within the existing field boundaries, the landform...would not change...*' However, that is clearly not the case, as can be seen on the Preliminary Site Levels plans (JNY9969-RPS-0100-005 and 006) from the Planning Statement which show the contours across the site and the proposed levels of each development parcel. Filling on some plots includes existing levels raised by:
- 3m, 5m and 5m respectively on plots starting from the west on drawing 005; and
 - 3.5 m, 7.5 and 4m respectively on plots starting from the west on drawing 006.
- 5.1.5 Excavations on the same plots are as follows:
- On drawing 005, excavated by 4m, over 5m and 1.5m;
 - On drawing 006, excavated by 1.5m, 1.5m and 2.5m along the northern edge.
- 5.1.6 Section 8 concludes with a summary of the existing landscape character, with no mention of effects of the Proposed Development.
- 5.1.7 Section 9, which is headed 'Assessment of Landscape Character', is actually an assessment of effects on the landscape character of the Rhoose Hinterland Visual and Sensory Aspect Area. At 4.45, the report stated that all five of the Visual and Sensory Aspect Areas which fall within the visual envelope of the Proposed Development have been assessed, but there seems to be no assessment of the other four areas.
- 5.1.8 At 9.1, landscape character effects on Rhoose Hinterland Visual and Sensory Aspect Area are set out as Medium sensitivity and Low magnitude, resulting in a Moderate effect. However, according to Table 8 in the Methodology, this should result in a Minor effect.



6 VISUAL EFFECTS

- 6.1.1 In Section 10: Effect on Visual Amenity, there are inconsistencies between the text and the results shown on Table 3 for Welford Farm complex (10.1), The Stable Porthkerry Farm (10.4) and Lower Porthkerry Farm (10.5): for Welford Farm the text states a High magnitude of change and a Substantial effect, whereas Table 3 shows a Medium magnitude and Major effect; for Porthkerry Farm Stables the text states a Medium magnitude and Major effect, whereas Table 3 shows a Low magnitude and Moderate effect; for Lower Porthkerry Farm the text states a Major effect (which is consistent with Table 8 of the Methodology) but Table 3 shows a Moderate effect.
- 6.1.2 The locations of the farms considered within Section 10 are not clearly shown on a plan.
- 6.1.3 At 10.13, the results in the text are inconsistent with those on Table 3 for Viewpoints 9, 10 and 11: the text states that the effect on them is Negligible, but Table 3 shows it as Minor for these viewpoints. However, according to Table 8 of the Methodology, High sensitivity combined with Low magnitude should result in a Moderate effect for Viewpoints 10 and 11.
- 6.1.4 There are no viewpoints shown along footpath PROW P4/17/1 even though it runs near to the eastern edge of the site. On both the ICM and the Parameter Plan, the footpath is incorrectly shown within woodland for almost all of its length, and where it is in the open, it is shown to the east of the woodland. As is clear from the Ordnance Survey 1:25000 map and the site visit undertaken for this review, the footpath mostly runs to the west of the woodland and Whitelands Brook. Of the footpath's length of approximately 1.1km, approximately 0.85km is across open ground, most of which has views of the site.
- 6.1.5 As a result, there are viewpoints from a public footpath close to the proposals which have not been addressed in the LVA.



7 FIGURES

- 7.1.1 Public Rights of Way (PROWs) are not clearly shown on a plan, only on the base mapping, making them hard to distinguish.
- 7.1.2 The text, at 7.5, refers to footpath numbers, which are not shown on a plan.
- 7.1.3 Figure 2: Landscape Designations, shows SSSIs and LNRs, which are not landscape designations, but does not show the SLA or the Country Park, which are.
- 7.1.4 Some Figures are confusing, such as 4d which lists categories of Outstanding, High, Moderate and Low in a random order and in different colours rather than a gradation of one colour. Figure 4f has the same random order of categories, using one colour but in random tones.
- 7.1.5 Figure 5: ZTV and Viewpoint Locations, would have been better zoomed-in to give a larger image of the area needed, as it is very small and difficult to see locations clearly.
- 7.1.6 As described above, on both the ICM and the Parameter Plan, the footpath is incorrectly shown running within woodland for almost all of its length, and where it is in the open, it is shown to the east of the woodland. In fact, the footpath runs to the west of the woodland.
- 7.1.7 A restricted byway on the southern side of the lane linking Porthkerry Road to the Porthkerry Country Park is not shown on the plans.

8 VIEWPOINTS

- 8.1.1 The photosheets showing the viewpoints have no annotations, so there is no indication of the site location or extent in any view. Given the size and of the proposals and their location next to open countryside on high ground, it is surprising that there are no visualisations that assist in identifying the scale or location of the proposals in their context.
- 8.1.2 As part of this review, additional photographs have been taken from viewpoints used in the LVA and from new viewpoints that were identified as part of the site work, using a full-frame DSLR camera with a lens with a fixed focal length of 50mm. Simple wire-frame visualisations have been produced for some viewpoints to help identify the location of the development and its extent.

The digital model for the visualisations was constructed using an OS terrain model for landform. The model of the development was based on the parameters plan produced for the proposals, which shows heights of the buildings in terms of numbers of storeys. The review was unable to find any heights for the buildings expressed in metres and has therefore assumed that the storeys are equivalent to those of a typical house rather than business buildings, as a single storey warehouse, for instance, would be significantly taller than a single storey dwelling. Each storey is equal to 3m, with an additional 3m for roof space per building.

- 8.1.3 The visualisations are not intended to be an accurate representation, largely as the information to enable that is not available, but to give an indication of the potential height and extent of each development plot, and takes no account of individual buildings, car parking or open space within each plot. They are therefore a 'worst case' representation.
- 8.1.4 **Viewpoint 2:** the photograph is not in the location described or identified on the plan but is some 500m to the west near to the Celtic International Hotel, the sign for which can be seen to the right of the image. For this review, a photograph has been taken from the correct viewpoint at the junction of Porth Road and footpath P4/17/1. The visualisation on Visualisation VLP-G/RPS 2, shows that the change in baseline description in Table 3 of Section 10 is inaccurate, as the proposed development is likely to obscure the existing development in the background, rather than be visible against it. However, the effect given as Substantial is appropriate.
- 8.1.5 **Viewpoint 4:** the Table 3 description states that the proposed development would be seen '*..against a background of built development in distance.*' However, this seems exaggerated as only a few existing houses are visible.
- 8.1.6 **Viewpoint 6,** Table 3 describes the proposed development as being seen '*..against a background of built development on the skyline*', but the hotel is the only built development that is clearly visible, and the proposed development would take up much of the foreground and middle ground over much of the view. The sensitivity of



Medium fails to take account of the viewpoint being on part of the National Cycle Route, and therefore the sensitivity should be High. Owing to the high bank that separates the airport from the rest of the view, the airport is not a significantly detracting factor to reduce the sensitivity of the viewpoint, the view consisting largely of open, deeply incised countryside. As a result, the Effect would be Substantial.

- 8.1.7 **Viewpoint VLP-F/RPS 6** is taken from a similar location, but shows a wider view than Viewpoint 6, which is significantly curtailed. Much of the land along the skyline, either side of the central woodland, would be developed.
- 8.1.8 **Viewpoint 7:** As with Viewpoint 6, the National Cycle Route designation has not been considered, and the sensitivity should be High with a Substantial effect. Visualisation VLP -E/RPS 7, taken from a similar viewpoint, shows the extent of the proposed development along the skyline and the upper slopes of the landform.
- 8.1.9 **Viewpoint 8:** Visualisation VLP-C/RPS 8 shows the extent of the proposed development across the skyline and the valley side, none of which is indicated on the viewpoint in the LVA. The Effect set out in Table 3 is appropriate, but the description fails to demonstrate the change.
- 8.1.10 **Viewpoints 9 to 12:** The photographs are out of focus, therefore of poor quality and difficult to interpret. Table 3 says the proposed development '*...may be visible through Porthkerry viaduct*' in Viewpoints 9 and 10, but the viaduct is not visible in the poor quality photographs.
- 8.1.11 Given that there are no viewpoints from PROW P4/17/1 within the LVA, this review has produced two from the public right of way, which are described below.
- 8.1.12 **Visualisation VLP-A:** this is from a location approximately 60m from the site boundary and 150m south-west of VLP-G/RPS 2, which is the correct location for the description in the LVA for Viewpoint 2. Given the high sensitivity of the viewpoint on a public footpath, the high magnitude of change as a result of proximity to the proposal and extent of the proposed development across the landscape, the effect should be Substantial.
- 8.1.13 **Visualisation VLP-B:** some 600m south west of VLP-A, and on footpath PROW P/4/17/1 where it passes along the valley floor west of Whitelands Brook, the viewpoint shows that the footpath is west of the woodland and the Brook, in open ground. The view looks up the slope to the north-west, where the proposed development occupies most of the skyline and is totally out of character with the setting. This review suggests a High sensitivity, Medium magnitude, resulting in a Major effect.
- 8.1.14 Additionally, **Viewpoint VLP-D** is from the lane that leads to Saint Curigs Church, south of the site, and is one of several glimpsed views from the lane. The proposal would extend across the skyline, west from Model Farm and down the slope below. The sensitivity is Medium given that it is a minor road from which the view is obtained, the magnitude would be Medium, giving a Moderate Effect.



9 SUMMARY AND CONCLUSIONS

9.1 SUMMARY

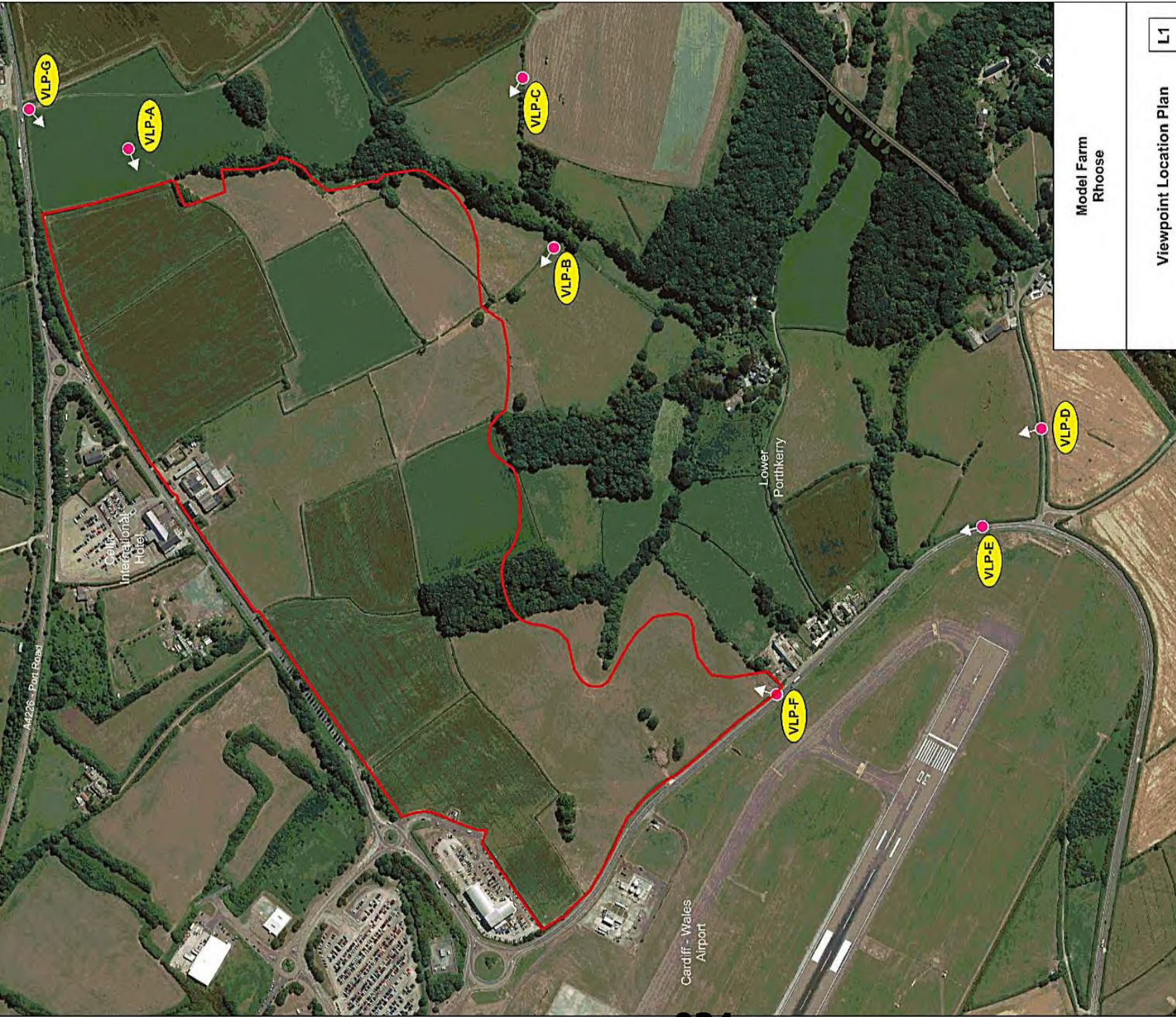
- 9.1.1 The LVA is inconsistent in the application of its own methodology; the methodology has omissions that lead to difficulties in understanding the processes that have led to the effects identified.
- 9.1.2 Drawings have information missing that is cited in the text and inaccurate identification of the route of a public footpath that runs adjacent to the site and which is a sensitive visual receptor. On the ZTV plan, the criteria for building heights are not clear and the locations of viewpoints are difficult to distinguish.
- 9.1.3 There is no annotation of the photographs of viewpoints to help identify existing features or the location of the proposals, photograph 2 is the wrong photograph for the viewpoint location, and there are no photographs from PROW P4/17/1 which runs close to the site. The effect of the existing development in the area is overstated.

9.2 CONCLUSIONS

- 9.2.1 This review has identified sufficient inconsistencies, omissions and inaccuracies to conclude that the LVA is not a sufficiently robust document to accurately inform the determining authority of the likely effects of the proposals on landscape and visual receptors.



VIEWPOINT PHOTOGRAPHS AND VISUALISATIONS



Key

Site Boundary

Viewpoint Location

VLP-G

Model Farm
Rhooose

Viewpoint Location Plan

L1

Scale 1:5,000 @ A3

0 100 200 300m



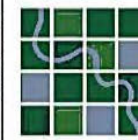
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Checked: LE

Dwg No: xxxx / 01

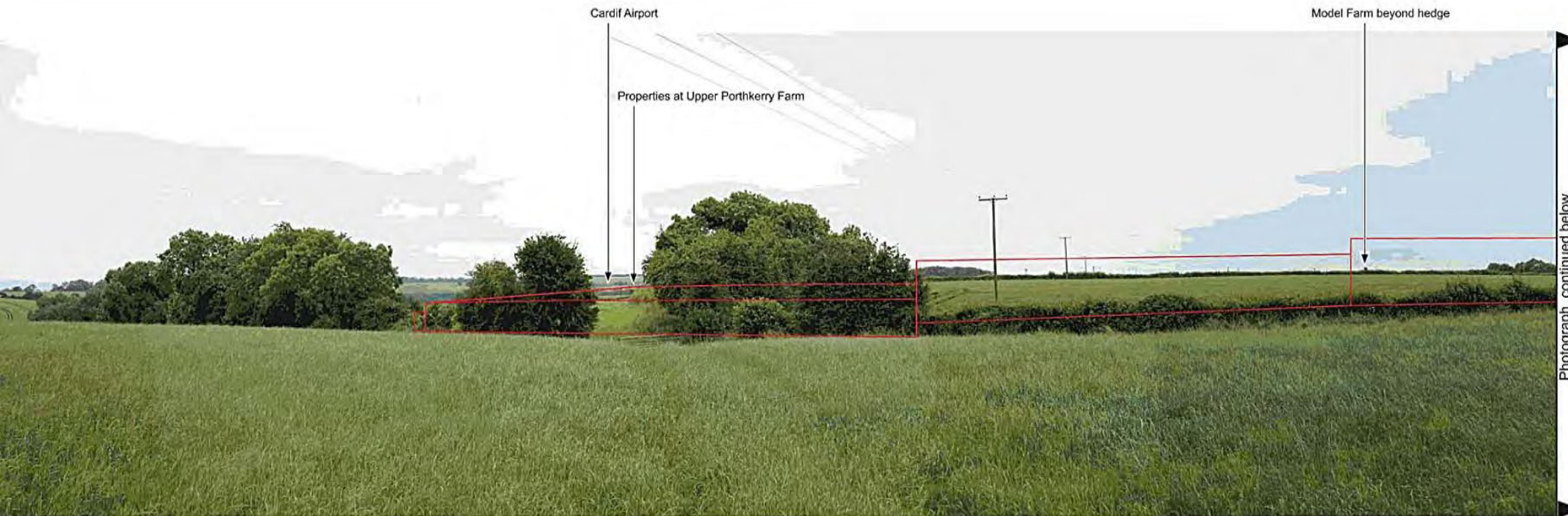
Revision: 000

Date: 09/07/2019



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Photograph continued below

Visualisation VLP-A: From footpath PROW P4/17/1 east of site looking south-west



Photograph continued above



Photographs taken on 26th June 2019

**Model Farm
Rhoose**

**Visualisation
VLP-A**

Date : 02/07/2019
Revision : A/1

Drawn : PS
Checked : NE



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Properties at Upper Porthkerry Farm



Photograph continued below

Visualisation VLP-B: From footpath PROW P/4/17/1 east of site looking north-west



Approximate position of footpath entering woodland

Footpath passes through gateway



View Location

Photographs taken on 26th June 2019

Model Farm
Rhoose

Visualisation
VLP-B

Date : 02/07/2019
Revision : A/2

Drawn : PS
Checked : NE



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Visualisation VLP-C/RPS 8: From footpath PROW P4/20-1 east of site looking west



Photographs taken on 26th June 2019

**Model Farm
Rhoose**

**Visualisation
VLP-C/RPS 8**

Date : 02/07/2019
Revision : A/3

Drawn : PS
Checked : NE



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Viewpoint VLP-D: From lane leading to Saint Curigs Church, south of site, looking north



Photographs taken on 26th June 2019

**Model Farm
Rhoose**

**Viewpoint
VLP-D**

Date : 02/07/2019
Revision : A/4

Drawn : PS
Checked : NE



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Visualisation VLP-E/RPS 7: From Porthkerry Road, south-east of site looking north-west



Photographs taken on 26th June 2019

**Model Farm
Rhoose**

**Visualisation
VLP-E/RPS 7**

Date : 02/07/2019
Revision : A/5

Drawn : PS
Checked : NE



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Airport perimeter

Holiday Inn Express Hotel



Viewpoint VLP-F/RPS 6: From Porthkerry Road, south-west of site, looking north-east



Photographs taken on 26th June 2019

**Model Farm
Rhoose**

**Viewpoint
VLP-F/RPS 6**

Date : 02/07/2019
Revision : A/6

Drawn : PS
Checked : NE



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Visualisation VLP-G/RPS 2: From junction of Porth Road and footpath PROW P4/17/1 north-east of site looking south-west

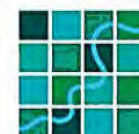


Photographs taken on 26th June 2019

**Model Farm
Rhoose**

**Visualisation
VLP-G/RPS 2**

Date :	02/07/2019	Drawn :	PS
Revision :	A/7	Checked :	NE



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LAND AT MODEL FARM, RHOOSE, BARRY, CF62 3BB

Independent review of Sustainable Drainage Assessment
undertaken by RPS

July 9, 2019

Prepared by:

Stantec

Revision	Description	Author		Quality Check	
1.0	Final	Dr Kelvin Limbrick, MCIWEM, CWEM.		John Potts, Senior Programme Manager	

Sign-off Sheet

This document entitled Land at Model Farm, Rhoose, Barry, CF62 3BB – Independent review of Sustainable Drainage Assessment undertaken by RPS was prepared by Stantec Inc. ("Stantec") and represents a peer review of technical work undertaken by third parties. The material in it reflects Stantec's professional judgment. The opinions in the document are based on conditions and information existing at the time the document was published and do not take into account any subsequent changes. In preparing the document, Stantec did not verify information supplied to it by others. Any use which a third party makes of this document is the responsibility of such third party. Such third party agrees that Stantec shall not be responsible for costs or damages of any kind, if any, suffered by it or any other third party as a result of decisions made or actions taken based on this document.

Prepared by



(Signature)

Dr Kelvin Limbrick, MCIWEM, CWEM.

Quality check by



(Signature)

John Potts, Senior Programme Manager.

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1.0 INTRODUCTION

This report comprises a peer review of the technical content of '*Sustainable Drainage Assessment - Land at Model Farm, Rhose, Barry, CF32 6BB*', produced by RPS (RPS report reference: JNY9969, v1.3, dated 10th June 2019). The RPS report has been produced to support an outline planning application for the proposed development of a mixed employment area (i.e. a new 'Enterprise Zone') covering an area of ca. 44.75ha. The RPS report outlines the broad nature of a proposed Sustainable Drainage Systems (SuDS) scheme for the proposed development and covers attendant considerations such as flood risk and foul drainage disposal. The primary objective of this technical peer review is to determine compliance of the proposed SuDS scheme with the new Sustainable Drainage Systems Standards for Wales, although coverage has been extended to also include commentary on local planning policies, flood risk and foul water disposal.

As such, the format of this technical note aligns with the main structure of the new Sustainable Drainage Systems Standards for Wales, which presents the standards and associated guidance in the following order:

- Standard S1 - Surface water runoff destination;
- Standard S2 - Surface water runoff hydraulic control;
- Standard S3 - Water Quality;
- Standard S4 - Amenity;
- Standard S5 - Biodiversity; and
- Standard S6 - Design of drainage for construction, operation and maintenance.

The commentary on local planning policies, flood risk and foul water disposal is included towards the end of this report.

2.0 STANDARD S1 - SURFACE WATER RUNOFF DESTINATION

This Standard presents the following preferred hierarchy for the disposal of surface water runoff:

- Priority Level 1: Surface water runoff is collected for use;
- Priority Level 2: Surface water runoff is infiltrated to ground;
- Priority Level 3: Surface water runoff is discharged to a surface water body;
- Priority Level 4: Surface water runoff is discharged to a surface water sewer, highway drain, or another drainage system; and
- Priority Level 5: Surface water runoff is discharged to a combined sewer.

Priority Level 1 is the preferred (i.e. highest priority) and Priority Levels 4 and 5 should only be used in exceptional circumstances. The RPS report proposes that rainwater harvesting tanks (1 tank per unit) are used as the Priority Level 1 solution. Rainwater harvesting tanks are a valid method for collecting surface water for reuse, although supporting calculations have not been provided to determine the sizing of each tank required to ensure that the first 5mm of rainfall events is 'intercepted'. It is assumed, however, that these calculations would be undertaken as the design of the scheme progresses.

The RPS report presents the results of infiltration testing and concludes that the potential for infiltration to ground is low and, as a result, the ultimate drainage receptors for all remaining site runoff will be the Bullhouse Brook and

subsequently the Whitelands Brook (i.e. Priority Level 3). These are both ordinary watercourses and the Whitelands Brook subsequently discharges to the Bristol Channel. Given that infiltration measures are unlikely to be viable, this arrangement is commensurate with the requirements of Standard S1.

3.0 STANDARD S2 – SURFACE WATER RUNOFF HYDRAULIC CONTROL

This Standard presents the following requirements for the hydraulic control of surface water runoff leaving the developed site:

- Surface water should be managed to prevent, so far as possible, any discharge from the site for the majority of rainfall events of less than 5mm;
- The surface water runoff rate for the 1 in 1 year return period event (or agreed equivalent) should be controlled to help mitigate the negative impacts of the development runoff on the morphology and associated ecology of the receiving surface water bodies;
- The surface water runoff (rate and volume) for the 1% (1 in 100 year) return period event (or agreed equivalent) should be controlled to help mitigate negative impacts of the development on flood risk in the receiving water body;
- The surface water runoff for events up to the 1% (1 in 100 year) return period (or agreed equivalent) should be managed to protect people and property on and adjacent to the site from flooding from the drainage system;
- The risks (both on site and off site) associated with the surface water runoff for events greater than the 1% (1 in 100 year) return period should be considered. Where the consequences are excessive in terms of social disruption, damage or risk to life, mitigating proposals should be developed to reduce these impacts; and
- Drainage design proposals should be examined for the likelihood and consequences of any potential failure scenarios (e.g. structural failure or blockage), and the associated flood risks managed where possible.

The RPS report proposes that rainwater harvesting tanks and permeable parking bays (i.e. permeable paving) are used to prevent discharge from the site for the majority of rainfall events of less than 5mm. Properly sized and designed, these techniques would most likely be sufficient to ensure compliance with the first element of this Standard, although the RPS report does not provide details of the sizing of the rainwater harvesting tanks or amount of permeable paving (and its depth) required to demonstrate this. It is, however, assumed that these sizing requirements would be determined as the design of the scheme progresses.

Attenuation storage volumes estimates are presented in the RPS report in order to address the second and third requirements of this Standard. It is proposed that attenuation basins are used to store the estimated volumes. The hydraulic calculations presented in the RPS report have, however, been based on 'permissible discharge' rates equivalent to the 1 in 100 year 'Greenfield' runoff rates for the development area. Given that it is highly unlikely that the proposed development would be able restrict its post-development runoff *volume* to that of the undeveloped (i.e. Greenfield) site, the assumption that 1 in 100 year Greenfield runoff rates can be used as the hydraulic control for the site is not commensurate with the guidance contained within this Standard, which states that (in such

circumstances) the following is required in order to protect the morphology and ecology of – and prevent an increase in flood risk on – receiving watercourses:

“G2.30 Where controlling runoff to greenfield volumes is considered unachievable, then the runoff volume should be reduced as much as possible and any additional volume should be stored and released at a low rate which will not increase downstream flood risk (normally 2 l/s/ha is considered an appropriate rate) using either of the following approaches:

- 1. The additional runoff volume (i.e. the difference between the predicted development runoff volume and the estimated greenfield runoff volume, often called Long-Term Storage) should be discharged from the site at a rate of 2 l/s/ha or less, while still allowing greenfield runoff peak flow rates to be applied for the greenfield runoff volume.*
- 2. All the runoff from the site for the 1:100 year event should be discharged at either a rate of 2 l/s/ha or the average annual peak flow rate (i.e. the mean annual flood, QBAR), whichever is the greater.*

Approach 2 provides a simpler approach, but results in larger storage volumes being required than Approach 1.”

The ‘QBAR’ rate and the rate of 2l/s/ha referred to above are both significantly lower than the 1 in 100 year Greenfield runoff rates used as the hydraulic control to estimate the size of the attenuation basins in the RPS report. This means that in order to achieve the above requirements of this Standard, the size of the attenuation basin features would most probably need to be greater than reported by RPS (unless of course the additional storage necessary to meet the above requirements is provided in a different form elsewhere on site). As such, on the basis of the calculations presented in the RPS report, the proposed SuDS scheme is not considered compliant with the second and third requirements of this Standard¹.

It is appreciated that the proposed development masterplan is only ‘outline’ at present and that RPS has not undertaken a detailed drainage design as a result. Consequently, the detail required to fully assess whether the RPS scheme meets the final three requirements of this Standard is unavailable at the time of writing. Notwithstanding this, it is always possible to provide initial guidance on the likely exceedance routes (i.e. fifth bullet point above) and implications of potential failure scenarios (i.e. sixth bullet above) at the outline phase, as this guidance can be helpful to masterplan designers to ensure that the final development layout is sensitive to these considerations and will be safe from any attendant flood risks.

4.0 STANDARD S3 – WATER QUALITY

The outline RPS SuDS scheme comprises: rainwater harvesting tanks (i.e. interception and reuse); permeable parking bays; service yard oil interceptors; dry (filtration) and wet (cascade) swales; and attenuation/filtration basins. With appropriate design and sizing, these features should enable the scheme to comply with this Standard on water quality.

5.0 STANDARD S4 – AMENITY

Combined with the proposed open space and landscaping, the SuDS features suggested by RPS (with appropriate design and sizing) should meet the greenspace and enhanced visual character requirements of this Standard on amenity.

¹ It is not clear from the RPS report whether the SuDS Approval Body (SAB) is prepared to accept such a deviation from the requirements of this Standard, or whether local circumstances mean that the potential impact on flood risk or the morphology and ecology of the receiving watercourses is less likely to be a significant issue in this instance. As such, this conclusion has been drawn with respect to the ‘face value’ principals of this Standard.

6.0 STANDARD S5 – BIODIVERSITY

With appropriate sizing and design, the inclusion of dry (filtration) and wet (cascade) swales, and attenuation/filtration basins - along with the proposed landscaping and open space areas - should be sufficient to meet the requirements of the Standard on biodiversity.

7.0 STANDARD S6 – DESIGN OF DRAINAGE FOR CONSTRUCTION, OPERATION AND MAINTENANCE

The detail required to assess whether the RPS scheme meets the requirements of this Standard is unavailable at the time of writing.

8.0 SUDS SCHEME ADOPTION

The adoption and maintenance arrangements for the proposed SuDS scheme had yet to be finalized at the time of the RPS report, although the report anticipates that the Vale of Glamorgan Council (i.e. the SAB and Highways Authority for the area) would adopt and maintain the scheme. It is recommended that the SuDS adoption and maintenance arrangements for the proposed mixed employment development are finalized at the earliest opportunity; the relevant guidance from the new Sustainable Drainage Systems Standards for Wales is provided below:

“It is essential that arrangements are put in place for the future maintenance of SuDS features. Where they serve a single property, such as a house, warehouse or retail complex, maintenance will remain the responsibility of the owner. For SuDS serving more than one property, the SAB will adopt and be responsible for the maintenance of, the system so that the SuDS continues to comply with SuDS Standards. In order to be adopted by the SAB the drainage system must be constructed and function as approved in accordance with the SuDS Standards and any conditions of approval stipulated by the SAB”.

9.0 FLOOD RISK – RIVERS AND THE SEA

The RPS report states that the entire site is located within Flood Zone 1 (i.e. ‘Low Probability’ of flooding from rivers and the sea: annual probability of flooding less than 0.1%). This designation is theoretically correct, although the RPS report ignores the fact that the current publicly available flood mapping has only been generated for watercourses with a catchment area in excess of 3km². Watercourses draining catchment areas less than this may still pose a flood risk to the surrounding land, although the spatial extent of their respective floodplains will not have been estimated by the publicly available flood mapping. This is likely to be the case for the Bullhouse Brook and the Whitelands Brook. The ongoing design of the masterplan for the proposed mixed employment use should be mindful of the likely floodplain extents associated with these smaller watercourses to ensure that the proposed development is safe and does not lead to an increase in flood risk elsewhere (refer to Section 10.0 below on surface water flood risk).

10.0 FLOOD RISK – SURFACE WATER

The ‘Flood Risk Assessment’ section of the RPS report does not make any reference to the publicly available flood mapping for surface water flood risk. This flood mapping shows the estimated floodplain extents for the Bullhouse Brook and the Whitelands Brook within the site of the proposed development (see Figure 1 below). The ongoing design of the masterplan for the proposed mixed employment use should be mindful of the likely floodplain extents

associated with these smaller watercourses to ensure that the proposed development is safe and does not lead to an increase in flood risk elsewhere.



Figure 1. Surface Water Flood Map showing estimate floodplain extents for the Bullhouse Brook and the Whitelands Brook (Natural Resources Wales, 2019).

11.0 LOCAL PLANNING POLICIES

The RPS report makes reference to Objective 2 and Policy MD1 of the Vale of Glamorgan Council's Local Development Plan (2011-2026). These policies both state that new development should avoid areas susceptible to flooding. The ongoing design of the masterplan for the proposed development should, therefore, be mindful of the likely floodplain extents associated with the Bullhouse Brook and the Whitelands Brook in order to comply with these local planning policies.

12.0 FOUL WATER DRAINAGE

RPS has consulted Welsh Water regarding foul water disposal options for the proposed development. It is noted that whilst Welsh Water has confirmed that capacity exists within its local waste water treatment works to accept the likely foul water loading from the development, the local foul water sewer system itself has insufficient capacity to accept the foul water from the site without causing foul water flooding issues in the surrounding area. Welsh Water has subsequently advised that it should be commissioned to undertake a hydraulic modelling study to identify options for upgrading the existing foul water network. At the time of this review, it is unclear whether this study has been commissioned. In addition, Welsh Water has recommended that the outline masterplan is revised to provide the necessary access to its existing foul sewer network present on site and, again, it is unclear whether this amendment to the masterplan has been made.

Finally, whilst it is appreciated that the RPS foul (and surface) water drainage layout is at present indicative, it is recommended that due consideration is given to existing private individual land ownership boundaries as the design of the scheme progresses in order to ensure that the ultimate drainage design is viable in terms of available land access constraints.

13.0 INDEPENDENT REVIEW CONCLUSIONS

This report comprises a peer review of the technical content of '*Sustainable Drainage Assessment - Land at Model Farm, Rhooose, Barry, CF32 6BB*', produced by RPS (RPS report reference: JNY9969, v1.3, dated 10th June 2019).

The conclusions of this independent review are as follows:

- Calculations should be provided to determine the sizing of each of the proposed rainwater harvesting tanks and permeable parking bays required to ensure that the first 5mm of rainfall events is 'intercepted'. This will help to ensure compliance with SuDS Standards S1 and S2. It is assumed that these calculations would be undertaken as the design of the scheme progresses;
- The sizing of the attenuation basin features needs to be re-assessed based on the method explained in Section 3.0 of this report (and in paragraph G2.30 of the new Sustainable Drainage Systems Standards for Wales). Without this re-assessment, it is likely that the storage volume available within the proposed attenuation basin features would be insufficient to meet the guidance on hydraulic control contained within SuDS Standard S2 and consequently this element of the proposed SuDS scheme would not appear to comply with the requirement to protect the morphology and ecology of – and prevent an increase in flood risk on – the receiving watercourses (i.e. the Bullhouse Brook and the Whitelands Brook);
- Initial guidance on the likely surface water exceedance routes and implications of potential failure scenarios should be provided, as this guidance would be helpful to the masterplan designers to ensure that the final development layout is sensitive to these considerations and will be safe from any attendant flood risks;
- It is recommended that the SuDS adoption and maintenance arrangements for the proposed mixed employment development are finalized at the earliest opportunity;
- The ongoing design of the masterplan for the proposed development should be mindful of the likely floodplain extents associated with the Bullhouse Brook and the Whitelands Brook to ensure that the development is safe, does not lead to an increase in flood risk elsewhere, and complies with local planning policies;
- It is recommended that the foul water disposal arrangements for the proposed mixed employment development are finalized at the earliest opportunity; and
- It is recommended that due consideration is given to existing private individual land ownership boundaries as the design of the surface and foul water scheme progresses in order to ensure that the ultimate drainage design is viable in terms of available land access constraints.



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 Coed Cadw
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1st October 2019

Dear Mr and Mrs Stevens

The Old Trees on your Land

I can confirm that you have on your land a significant collection of old trees. These are of heritage and biodiversity value both in themselves and for the wildlife they support. These include old hedgerow and streamside trees, mostly oaks. These features are clearly shown on the 1879 map you have. These trees are likely to pre-date this map, and some of them appear to be individually shown on it. This demonstrates a long continuity of mature tree and ancient boundary habitat, which is further indicated by the presence of species indicating continuity with ancient woodland, including field maple and the polypody fern growing as an epiphyte on the oak trees.

Other trees, including the two large London plane trees, Scots pines, black poplars and the horse chestnut, were presumably planted as part of the landscape garden and I would guess are more than 100 years old. Directly associated wildlife you have noted includes owls, bats, and green and greater spotted woodpeckers. I am sure a systematic survey will reveal more, including fungi and invertebrates associated with old trees and hedges.

I have recorded the largest of the oaks and London planes as provisional records on the Ancient Tree Inventory and noting in the Inventory that the old tree interest is not confined to these trees, but is greatly extended by the presence of a score or so of similarly large/old trees, of a range of species. Collectively these provide a significant amount and diversity of old tree habitat.

Three categories of old trees are recognised: Veteran, Ancient and Notable. I think these trees are certainly in the notable category, defined as “*usually mature trees which may stand out in the local environment because they are large in comparison with other trees around them*”, some may be in the “veteran” category defined as “*A veteran tree*

will have some of the features found on an ancient tree, but won't have the great age". Ancient trees are defined as being in the "... *third and final stage of its life*" and characterised by exceptionally large girth, retreating and stag-headed crowns and cavities and decaying wood. My records in the Inventory are subject to verification by an expert verifier and are not at present available for public view.

Potential threats

You have raised concerns about two potential threats to these trees arising from proposed development on adjacent upslope land.

1. Proposed foul water sewer installation. A new sewer is proposed across your land and passing close to several of these old trees, including the two I have recorded on the Ancient Tree Inventory. Such excavation and installation work, will be within the root zone of these trees and is likely therefore to have a serious detrimental effect. Associated construction traffic also creates the risk of direct damage to the trees and of permanent soil compaction. Advice on caring for old trees¹ stresses the importance of complete protection of the root zone and soil surface from disruption and compaction. A Root Protection Area of 15 times the stem diameter at breast height or 5 metres beyond the edge of the trees canopy is ideal, and recommendations for RPAs are given in British Standard 5837:2012.
2. The second threat arises from additional surface water drainage carried by the existing streams that might arise from a reduction of permeability of land brought under buildings and hard surfacing and other changes in site hydrology caused by the proposed development. Several of the old oaks, including the largest one recorded, are positioned directly on the banks of the streams. Any increase in flow volumes and especially peak flow volumes and any increase in the frequency and level of flash flooding events could directly undermine these trees and lead to collapse.

The recently introduced Sustainable Urban Drainage Scheme (SUDS) regulation is that this should not be permitted to happen. The intention of these regulations is "*to reduce the potential impact of new and existing developments with respect to surface water drainage discharges.*"

Your collection of old trees are I think a resource of significant cultural and biodiversity value, and should be conserved as a valuable legacy for future generations.

Yours sincerely



Jerry Langford CEnv
Public Affairs Manager

¹ D Lonsdale D. (Ed) (2013) "Ancient and other veteran Trees: further guidance on Management. The Tree Council. London 212 pp

Date: 1st October 2019
Our Ref: LF/MG/19.8060

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Vale of Glamorgan Council
 Planning Policy
 Civic Office
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 Barry
 CF63 4RU

Dear Sir/Madam,

**Cardiff Airport and Gateway Development Zone
 Draft Supplementary Planning Guidance (SPG) (August 2019)
 Public Consultation – Representations on behalf of The Stevens Family**

Boyer have been instructed by Mr and Mrs Stevens of The Old Rectory to provide comments in response to the Vale of Glamorgan Council's public consultation regarding the draft Cardiff Airport and Gateway Development Zone Supplementary Planning Guidance (SPG). The site is allocated in the adopted Local Development Plan (LDP) under Policy MG10 for 'strategic employment land' consisting of Class B1, B2 and B8 (business, commercial and industrial uses) uses and forms part of the Cardiff Airport Enterprise Zone.

An outline application has been submitted on behalf of Legal & General in relation to the proposed Parc Business Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhoose (Ref: 2019/00871/OUT). Representations were previously provided on behalf of our clients, which highlighted a number of significant concerns regarding the proposals, as part of the Pre-Application Consultation (PAC) process. We intend to submit additional comments specifically in relation to the development proposed by the application, shortly.

In addition to the above, Cardiff Airport published the 'Our Airport 2040 - Masterplan', which set out the airport's aims of increasing passenger turnover to around three million by 2036. The Masterplan also includes plans for a new terminal building, additional airport facilities, a transport hub and an 'Airport City' comprising new aerospace industries within the Cardiff Airport Gateway Enterprise Zone. However, this document currently has no statutory status.

Comments on draft Cardiff Airport and Gateway Development Zone SPG (August 2019)

Phasing

Policy MG10 of the adopted LDP, which the draft SPG is intended to support, was subject to particular scrutiny during the Examination of the LDP in respect of the phasing of development at the wider Enterprise Zone. Accordingly, the Examination Inspector concluded that "The delivery of the Enterprise Zone will be guided by a Masterplan for the area, prepared by WG (Welsh Government).



MAC55 (Matters Arising Change) would update Policy MG10 to clarify the key elements of the Masterplan, thereby embedding such requirements within the statutory development plan¹.” The Inspector also added that the delivery of the site will be guided by the Masterplan, which “...would determine the phasing for the allocation².”

Supporting text to Policy MG10 of the LDP itself also adds that “The phasing of such development will be critical and, accordingly, the Masterplan will be required to consider phasing for the *entire allocation*” (*our emphasis*). The draft SPG states that “Due to the scale of the site, the phasing of the development is important to ensure that there is adequate infrastructure to support the proposal,” and that “The Council will require an appropriate phasing strategy to be submitted to support future applications.”

Consequently, despite the clear and unambiguous requirements of the LDP as confirmed by the Examination Inspector, the draft SPG fails to actually address the issue of phasing and instead, inappropriately abdicates this responsibility to the planning application process. This is especially important given the landscape sensitivity of the site and surrounding area and is clearly insufficient in terms of the provisions of adopted LDP Policy MG10, providing no additional guidance in respect of the phasing of development at the Enterprise Zone.

It is therefore considered that the SPG should be revised in order to clearly set out the phasing requirements for the wider Enterprise Zone, which should take into account the relationship of the surrounding environment with existing development. In this regard, it is felt that land to the north-west of Port Road should be developed first as this would result in a more logical form of development bounded by existing airport, Port Road, Tredogan Road and the A4226.

Sustainable Transport

In terms of sustainable transport, it is noted that, notwithstanding the indicative nature of the route, the draft SPG and Illustrative Masterplan at Appendix 10 shows the location of a ‘potential rail link’ to the airport. Although supporting text to Policy MG10 of the adopted LDP makes reference to the ‘consideration of a potential rail link’, the requirement for such a link was specifically removed from the policy text itself during the Examination of the LDP.

As SPG, the document is required to accord with the adopted Development Plan. Indeed, the draft SPG itself states that “No dedicated route has been identified or safeguarded in the LDP or the Masterplan for the provision of such a link because there is no certainty of delivery at this time...”³ Although the SPG adds that it remains a ‘key aim’ for the airport and Enterprise Zone, it should be noted that the extant planning application for the land south of Port Road also does not safeguard any potential routes.

As set out during previous representations to the Examination of the LDP, the provision of the so-called ‘rail spur’ would require significant earthworks in order to ‘cut and fill’ a potential route due to the topography of the land. This, in combination with the direct provision of new rail infrastructure

¹ Examination Inspector’s Report, Paragraph 8.7

² Examination Inspector’s Report, Paragraph 8.9

³ Draft Cardiff Airport and Gateway Development Zone SPG, Paragraph 6.1.30

would represent enormous financial costs, as well as ‘hidden’ carbon costs from the production of heavy-duty steel and concrete sleepers.

There is also likely to be a considerable loss of trees from the existing areas of woodland surrounding The Old Rectory, all of which are designated as areas of Ancient Woodland and Sites of Importance for Nature Conservation (SINCs), thereby impacting on existing, protected species, as well as removing existing ‘carbon sinks’. In this regard, an acre of trees will sequester around 2.6 tonnes of carbon dioxide, equivalent to twice the carbon emitted by an average family car annually. There would therefore almost certainly be a significant, adverse impact on the ecology of the area encompassing the proposed Porthkerry Park extension, as well as the wider environment. This would inherently conflict with the Welsh Government’s declaration of a ‘climate emergency’ on 26th April 2019.

Passenger numbers for Cardiff Airport from June 2018-2019 stood at 1,632,689, which equates to, on average, 4,473 passengers per day. Assuming a 12% modal split of passengers arriving at, and departing from, the airport, by train (based on the modal split of passengers using rail at Newcastle Airport in 2017⁴, one of the most accessible airports in the UK in terms of rail connectivity), then it can be expected that around 527 passengers will utilise a rail connection each day. Assuming between three and four trains per hour running for 17 hours a day, there will be a total of around 102-136 train journeys daily. This equates to around *four to five passengers per train*.

Moreover, rail users can already access the airport via Rhose-Cardiff International Airport rail station, which is connected by a direct shuttle to the airport’s terminal just 1.5km to the north-east. This also has the benefit of providing rail access from Swansea and to the west, as well as Cardiff and to the east, while the potential rail link would only allow access from an easterly direction, where the airport’s catchment strongly conflicts with that of Bristol Airport.

On this basis, is considered that a ‘cost-to-benefit’ analysis of a potential rail link does not stand up to either fiscal or environmental scrutiny and should therefore be abandoned. It is also important to note that there was significant public opposition to the ‘rail spur’ when initially proposed as part of the LDP. This opposition was acknowledged by the removal of the spur from the LDP before it finally being adopted.

Publication of draft SPG

It should be noted that the Planning Statement submitted as part of the extant planning application on land to the south-east of Port Road (Ref: 2019/00871/OUT), which was prepared in July 2019 and submitted on 7th August 2019, makes reference to the draft SPG having been published and being “currently out” for consultation⁵. However, the Council did not publish the draft SPG for consultation until 19th August 2019, less than two weeks following submission of the application, while the draft SPG itself also appears to have been prepared in July 2019.

Although we recognise the value of a collaborative approach with relevant stakeholders, these timescales raise questions regarding the extent and transparency of collaboration during the preparation process of the draft SPG.

⁴ Newcastle International Airport Masterplan 2035, Figure 12

⁵ RPS Planning Statement, Paragraph 5.16


I trust that these representations have been 'duly made' and will be considered by the Council accordingly. If you require any further information or clarification, please do not hesitate to contact me.

Yours sincerely,

A black rectangular box redacting the signature of Michael Gooch.

Michael Gooch
Senior Planner

Tel: 02921 670 590

Email: 

MEMORANDUM / COFNOD

The Vale of Glamorgan Council
Development Services
Dock Office, Barry Docks, Barry, CF63 4RT



To / I:	Cieri Rowlands	From / Oddi Wrth:	Conservation and Design
Dept / Adran:	Development Management	My Ref / Fy Cyf:	
Date / Dyddiad:	02 October 2019	Tel / Ffôn:	(01446) 704628
Your Ref / Eich Cyf:		Fax / Ffacs:	(01446) 421392

Application: 2019/00871/OUT
Location: Land at Model Farm, Port Road, Rhose
Proposal:

Recommendation

- | | |
|--|--|
| <input type="checkbox"/> No objection | <input type="checkbox"/> Notes for applicant |
| <input type="checkbox"/> Object (holding objection) | <input type="checkbox"/> Request for further information |
| <input checked="" type="checkbox"/> Object and recommend refusal | <input type="checkbox"/> Recommend planning conditions |

Main Issue

The main issues considered by me are:

- whether the proposed development preserves the listed buildings, their setting or any features of architectural or historic interest which they possess; and
- whether the proposed development preserves or enhances the character or appearance of conservation areas.

Please note the primary consideration for any development affecting a listed building or its setting or a conservation area are the statutory requirements to have special regard to the desirability of preserving the historic asset.

Legislation and Policy

The Planning (Listed Buildings and Conservation Areas) Act (1990)

The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) sets out the principal statutory instruments which must be considered in the determination of any application affecting either listed buildings or conservation areas.

Section 66 of the Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning

authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 69 enables Local Planning Authorities to designate conservation areas. Conservation areas are those areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance. Section 72 requires that in the exercise of planning duties special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

The Courts have made it clear that the duty imposed in the Act means that in considering whether to grant permission for development that may cause harm to a designated asset and/or its setting, the decision maker should give particular weight to the desirability of avoiding that harm. There is still a requirement for a planning balance, but it must be informed by the need to give weight to the desirability of preserving the asset and its setting.

Planning Policy Wales

Chapter 6 of Planning Policy Wales (PPW) sets out the Welsh Government's planning guidance on the conservation and enhancement of the historic environment.

Paragraph 6.1.9 makes clear "Any decisions made through the planning system must fully consider the impact on the historic environment and on the significance and heritage values of individual historic assets and their contribution to the character of place."

Paragraph 6.1.10 states:

"There should be a general presumption in favour of the preservation or enhancement of a listed building and its setting, which might extend beyond its curtilage. For any development proposal affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses."

Paragraph 6.1.14 states:

"There should be a general presumption in favour of the preservation or enhancement of the character or appearance of conservation areas or their settings. Positive management of conservation areas is necessary if their character or appearance are to be preserved or enhanced and their heritage value is to be fully realised."

Technical Advice Note 12: Design

TAN 12 seeks to promote sustainability through good design. Paragraph 2.2 states:

“The Welsh Government is strongly committed to achieving the delivery of good design in the built and natural environment which is fit for purpose and delivers environmental sustainability, economic development and social inclusion, at every scale throughout Wales – from householder extensions to new mixed use communities.”

Technical Advice Note 24: The Historic Environment

Local Development Plan

The Vale of Glamorgan LDP policies reflect the national policy for the strict control of development affecting conservation areas. Policy SP10 (Built and Natural Environment) and Policy MD8 (Historic Environment) set out the preserve or enhance the character or appearance of the Vale of Glamorgan’s Conservation Areas.

POLICY SP 10 - BUILT AND NATURAL ENVIRONMENT

DEVELOPMENT PROPOSALS MUST PRESERVE AND WHERE APPROPRIATE ENHANCE THE RICH AND DIVERSE BUILT AND NATURAL ENVIRONMENT AND HERITAGE OF THE VALE OF GLAMORGAN INCLUDING:

1. THE ARCHITECTURAL AND / OR HISTORIC QUALITIES OF INDIVIDUAL BUILDINGS OR CONSERVATION AREAS, INCLUDING LOCALLY LISTED BUILDINGS;
2. HISTORIC LANDSCAPES, PARKS AND GARDENS;
3. SPECIAL LANDSCAPE AREAS;
4. THE GLAMORGAN HERITAGE COAST;
5. SITES DESIGNATED FOR THEIR LOCAL, NATIONAL AND EUROPEAN NATURE CONSERVATION IMPORTANCE; AND
6. IMPORTANT ARCHAEOLOGICAL AND GEOLOGICAL FEATURES.

Policy MD8 (Historic Environment) deals specifically with the protection of the qualities of the built historic environment, and in particular the preservation and enhancement of conservation areas character or appearance:

POLICY MD 8 - HISTORIC ENVIRONMENT

DEVELOPMENT PROPOSALS MUST PROTECT THE QUALITIES OF THE BUILT AND HISTORIC ENVIRONMENT OF THE VALE OF GLAMORGAN, SPECIFICALLY:

1. WITHIN CONSERVATION AREAS, DEVELOPMENT PROPOSALS MUST PRESERVE OR ENHANCE THE CHARACTER OR APPEARANCE OF THE AREA;
2. FOR LISTED AND LOCALLY LISTED BUILDINGS, DEVELOPMENT PROPOSALS MUST PRESERVE OR ENHANCE THE BUILDING, ITS SETTING AND ANY FEATURES OF SIGNIFICANCE IT POSSESSES;
3. WITHIN DESIGNATED LANDSCAPES, HISTORIC PARKS AND GARDENS, AND BATTLEFIELDS, DEVELOPMENT PROPOSALS MUST RESPECT THE SPECIAL HISTORIC CHARACTER AND

- | | |
|----|--|
| 4. | QUALITY OF THESE AREAS, THEIR SETTINGS OR HISTORIC VIEWS OR VISTAS;
FOR SITES OF ARCHAEOLOGICAL INTEREST, DEVELOPMENT PROPOSALS MUST PRESERVE OR ENHANCE ARCHAEOLOGICAL REMAINS AND WHERE APPROPRIATE THEIR SETTINGS. |
|----|--|

Supplementary Planning Guidance

Conservation Area Appraisal and Management Plan

The Porthkerry Conservation Area Appraisal and Management Plan identifies the qualities of the conservation area. Whilst the conservation area is an area of special architectural and/or historic interest, the character or appearance of which it is desirable to preserve or enhance, this does not mean that it is automatically of high sensitivity to all forms or scales of development or that parts of it are uniformly of the same value and sensitivity.

The CAAMP is not prescriptive about which areas may be suitable for development but is guidance on general principles. It provides more detail than the Local Development Plan and is the preferred guidance for assessing the impact of the proposed scheme.

Assessment

The application is supported by a Built Heritage Statement prepared by CGMS heritage. This acknowledges that there will be potential to impact on the significance of six designated heritage assets and two undesignated heritage assets. Although the language used relates to the English policy context it is readily understood.

It infers that any impact will be on the setting of these historic assets rather than any direct impact. Specifically, it concludes that there will be a **moderate degree of harm** to the setting of Lower Porthkerry Farm House (Grade II listed); Upper Porthkerry Farm House (Grade II listed) and the Porthkerry Conservation Area. There will be a **minor degree of harm** to the setting of Church Farmhouse (Grade II*); the Outbuilding to Church Farmhouse (Grade II*); the former stables block associated with Upper Porthkerry Farm House (locally listed County Treasure); and Egerton Grey (locally listed County Treasure). There will be a **negligible degree of harm** to the setting of the Church of St Curig (Grade II*) and Porthkerry Viaduct (Grade II).

The methodology employed in the assessment is considered robust and the findings of the report in respect of the above buildings is accepted as an accurate assessment. Notwithstanding this, I note that no consideration has been given to two locally listed County Treasures (namely Welford Farmhouse and Welford Farm Barns). The former because it has been demolished and the latter because they have been converted to residential use.

Whilst it is accepted that the demolition of the house means no consideration should be given to this element and the conversion of the barns has reduced their

significance to some degree; it is not accepted that they do not retain significance that should be considered in the determination of this application. I have carried out a brief assessment of the barn below:

Barns at Welford Farm

Significance: The remaining barns on the site are part of a range of two-storey rubble outbuildings which formerly enclosed three sides of a courtyard. The buildings feature hipped slate roofs and square headed window and door openings under heavy stone lintels. It has been significantly altered including the demolition of the western wing (in addition to the farmhouse). In addition, the barns have been converted to residential use which has further diluted their significance. Nevertheless, the barns retain

As the only remnant part of the historic farmstead, it provides some historic and aesthetic value in detailing the designs, materials and building types in the eighteenth century. The presence of original fabric fronting onto the A4226 provides a degree of visual connection with the fields that the building most likely served.

Setting: The Welford Farm complex is experienced primarily in the immediate and intermediate setting of their surrounding plots, associated former farmstead development (where remaining) and the surrounding field parcels. The application site abuts close to the southern boundary of the former farmstead.

From the intermediate and wider extended setting, it is still possible to experience Welford barn as part of a former farmstead even though the alterations (including demolition of the house and part of the barn, and conversion of the remaining barn to residential use) and cessation of an agricultural use have impacted upon the overall experience. In addition, an upgraded road, immediately south of the barn has markedly impacted the way the building is experienced.

Accordingly, the historic setting of the remnant former farm buildings has been much eroded both in the intermediate and wider extended setting by the road alterations and its immediate surrounds with the cessation of the farm's agricultural use, demolition of much of the farmstead and residential conversion of the barn. Setting makes a small positive contribution, though much reduced and limited to the surviving rural context still experienced. The Site correspondingly makes a small positive contribution in this regard.

Significance and Setting Summary: The former barn associated with Welford Farm is of local significance with its significance derived from the retained original fabric and the historic functional relationship with Welford Farm.

The wider rural surrounds, including application site makes some positive contribution to the building's significance by providing some historic rural and agricultural context to the understanding of the historic asset, primarily as a barn.

Assessment of impact: The proposed development of the business park to the south west of the barn would alter some of the wider rural landscape. The application site to the south west of the barn will be used to provide B2/B8 uses with the Parameter

Plan: Land Use and Storey Heights indicating min/max heights of 12m/16m; lengths of 200m/220m; and widths of 70m/80m. The proposed development represents a degree of further erosion of the wider rural environment alongside the existing airport development.

There will be a change to the intermediate and wider setting. It is considered that the proposed development will result in a **minor degree of harm** to the significance of the Welford Barn. This level reflects the changes and harm to significance already seen through significant alterations to the farmstead through the demolition of the farmhouse; the new dwelling and the conversion of the barn. This harm will arise through the further erosion of the wider agricultural landscape from the proposed built development which will be visible on the surrounding landscape.

Mitigation: No mitigation is proposed.

Where harm has been identified in the Built Heritage Statement the only mitigation proposed relates to lighting, which it is acknowledged, will unlikely remove that harm completely. It is unclear if any other mitigation has been considered.

Conclusion

Having regard to the above I am of the view that the Built Heritage Statement is a generally accurate reflection of the impacts of the proposed development on the setting of historic assets and broadly agree with its contents. I disagree with its conclusions on the significance of the Welford Barn and have provided a brief assessment of this above.

I agree with the conclusions of the Built Heritage Statement that there will be varying degrees of harm to the setting of historic assets. This is contrary to policies SP10 and MD8 of the LDP. On this basis I cannot offer my support to the application.

However, you will need to reach your own conclusion, and if necessary, carry out a balancing exercise weighing any 'harm' against any benefits. Furthermore, you will need to demonstrate how considerable importance and weight has been afforded to the considerations to which s66 and/or s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 apply and, where appropriate to explain how benefits have been weighed against such matters.

Peter Thomas
Senior Planner (Conservation and Design)

Date: 25th October 2019
Our Ref: LF/MG/19.8060

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Mr Ceiri Rowlands
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Dear Mr Rowlands,

Proposed Parc Busnes Porth Cymru Business Park (Ref: 2019/00871/OUT)
Land at Model Farm, Port Road, Rhoose, CF62 3BB
Representations on behalf of The Stevens Family

Boyer have been instructed by Mr and Mrs Stevens of The Old Rectory to provide comments in response to the outline application submitted on behalf of Legal & General in relation to the proposed Parc Business Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhoose (Ref: 2019/00871/OUT).

Background

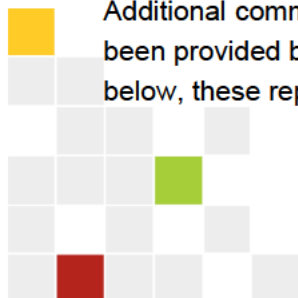
The planning application seeks outline planning permission for the demolition of existing buildings and the erection of a 45ha Class B1/B2 and B8 Business Park, together with associated car parking, landscaping, drainage infrastructure, biodiversity provision and ancillary works.

As a proposed major development, the proposals were published for Pre-Application Consultation (PAC) as required by Section 61Z of the Town and Country Planning Act 1990 between 11th June and 10th July 2019. Representations were previously provided on behalf of our clients, which highlighted a number of significant concerns regarding the proposals, particularly in relation to the following:

- Landscape;
- Ecology; and
- Flood Risk and Drainage.

It is apparent that little to no regard has been had for our concerns, since there have been no substantive revisions to the proposals, as evidence by Tables 3.1, 3.2 and 3.3 of the submitted PAC Report. Accordingly, our previous comments concerning the proposals remain valid and we request that they be formally considered as part of the Council's consideration of the planning application. A copy of these previous comments is appended to these representations.

Additional comments regarding the current proposals and where revisions or further information has been provided by the applicant are hereby provided. Accordingly, in addition to the comments set out below, these representations also include the following documents:



- **Appendix 1:** Previous Pre-Application Consultation (PAC) Comments, including:
 - *Appendix 1a:* Review of RPS Landscape and Visual Appraisal (LVA) (Viridan Landscape);
 - *Appendix 1b:* Ecology Initial Findings (Hawkeswood Ecology); and
 - *Appendix 1c:* Review of RPS Sustainable Drainage Assessment (SDA) (Stantec).
- **Appendix 2:** Audit of final RPS LVA (Viridian Landscape);
- **Appendix 3a:** Review of Preliminary Ecological Appraisal and Initial Bat Surveys (Hawkeswood Ecology);
- **Appendix 3b:** Response to RPS Species Surveys (Hawkeswood Ecology); and
- **Appendix 4:** Woodland Trust (Coed Cadw) Letter.

The remainder of this submission now addresses our concerns regarding the final proposal, beginning with reference to local and national policy, comprising the following adopted and draft documents:

- *Adopted* Vale of Glamorgan LDP 2011-2026 (June 2017);
- *Draft* Cardiff Airport and Gateway Development Zone Supplementary Planning Guidance (SPG) (August 2019)
- *Adopted* Planning Policy Wales, Edition 10 (December 2019); and
- *Draft* National Development Framework (NDF) (August 2019).

In addition to the above, Cardiff Airport published the 'Our Airport 2040 - Masterplan', which set out the airport's aims of increasing passenger turnover to around three million by 2036. The Masterplan also includes plans for a new terminal building, additional airport facilities, a transport hub and an 'Airport City' comprising new aerospace industries within the Cardiff Airport Gateway Enterprise Zone. However, this document currently has no statutory status and has no material weight in the consideration of proposals for development within the Enterprise Zone.

Vale of Glamorgan LDP Policy MG10

The site is allocated in the adopted Local Development Plan (LDP) under Policy MG10 for 'strategic employment land' consisting of Class B1, B2 and B8 (business, commercial and industrial uses) uses and forms part of the Cardiff Airport Enterprise Zone. This policy was subject to particular scrutiny during the Examination of the LDP.

Accordingly, the Examination Inspector concluded that "The delivery of the Enterprise Zone will be guided by a Masterplan for the area, prepared by WG (Welsh Government). MAC55 (Matters Arising Change) would update Policy MG10 to clarify the key elements of the Masterplan, thereby embedding such requirements within the statutory development plan¹." The Inspector also added that the delivery of the site will be guided by the Masterplan, which "...would determine the phasing for the allocation²."

Supporting text to Policy MG10 of the LDP itself also adds that "The phasing of such development will be critical and, accordingly, the Masterplan will be required to consider phasing for the *entire allocation*" (*our emphasis*).

Notwithstanding that, as set out above, no Masterplan for the Enterprise Zone has yet been adopted, the draft Cardiff Airport and Gateway Development Zone SPG states that "Due to the scale of the

¹ Examination Inspector's Report, Paragraph 8.7

² Examination Inspector's Report, Paragraph 8.9

site, the phasing of the development is important to ensure that there is adequate infrastructure to support the proposal,” and that “The Council will require an appropriate phasing strategy to be submitted to support future applications.” Further comments in respect of the SPG are set out below.

In this regard, no information has been provided in the application submission regarding the proposed phasing of the development, while the submitted Planning Statement confirms that “maximum flexibility” is sought to allow the development to quickly respond to the market and to “come forward in phases³” with no further details provided.

Given the clear importance of phasing, which has been acknowledged as part of both the Examination and adoption of the LDP, it is therefore felt that, as a minimum, additional information in terms of the proposed phasing should be provided, before the application is determined. This is especially important as the proposals constitute EIA development and given the landscape sensitivity of the site and surrounding area.

Cardiff Airport and Gateway Development Zone SPG

As set out previously, the Vale of Glamorgan Council are currently consulting on the draft Cardiff Airport and Gateway Development Zone SPG, which is intended to provide further, more detailed guidance on the application of LDP Policy MG10. Both the Examination Inspector and the adopted LDP explicitly set out the importance of the Masterplanning process in the consideration of any planning applications.

The particular importance of phasing with respect to proposals for development at the Enterprise Zone has already been clearly set out. In this regard, despite the clear and unambiguous requirements of the LDP as confirmed by the Examination Inspector, the draft SPG fails to actually address the issue of phasing and instead passes the requirement onto prospective applicants to simply provide “an appropriate phasing strategy.” This is clearly insufficient in terms of the provisions of adopted LDP Policy MG10 and provides no additional guidance in respect of the phasing of development at the Enterprise Zone.

Further comments in relation to the draft SPG are expected to be provided in due course.

Planning Policy Wales (PPW), Edition 10 (December 2018)

Planning Policy Wales (PPW) provides national planning guidance in relation to development management. Of particular relevance to the proposals on land at Model Farm, the importance of resilient ecosystems is emphasised throughout the document, explicitly clarifying that planning authorities should follow a step-by-step approach “...to maintain *and* enhance biodiversity and... resilient ecological networks by ensuring that any adverse environmental effects are *firstly avoided*, then minimised, mitigated, and as a last resort compensated for; enhancement must be secured wherever possible⁴” (*our emphasis*).

National Development Framework (NDF) 2020-2040 (August 2019)

The Welsh Government is currently consulting upon the draft National Development Framework (NDF), which will sit alongside PPW but will form part of the Development Plan when it is adopted by Welsh Government. Of relevance to the planning application at Model Farm, draft Policy 32 (Cardiff

³ RPS Planning Statement, Paragraph 7.55

⁴ Planning Policy Wales, Edition 10, Paragraph 6.4.21

Airport) “Development of land adjacent to Cardiff Airport which is part of the Enterprise Zone is supported where it supports the functions of the airport.”

Notwithstanding that, at the current stage, only minimal weight can be afforded to the draft policies of the NDF, it should be noted that Policy 32 explicitly refers to development that “supports the functions of the airport.” In this regard, there is no certainty that the proposals, should they come forward, support the functions of airport or the aerospace industries envisaged in the Enterprise Zone, given the flexibility being sought by the application and the fact that it is only outline in nature. It is therefore not only possible but, given the lack of substantial market interest from prospective operators, likely that the proposals for open Class B1/B2 and B8 business uses would not contribute in any way to the functions or viability of Cardiff Airport.

Additionally, no provision or even safeguarding is made for further improvements to sustainable transport and it is therefore considered that the proposals do not seek to address the objectives for the airport set out in the draft NDF.

Other Material Considerations

As set out previously, the majority of our concerns raised previously do not appear to have been addressed by the applicant. Consequently, our previous comments made during the statutory PAC process remain valid and are appended to this submission. Further comments in relation to the technical aspects of the proposals are now made, below.

Landscape

As set out within the audit of the final LVA (see Appendix 2), while some of our previous concerns have been addressed by the applicant, a great number of issues appear to have been ignored. These issues are identified in the accompanying Audit of the Final LVA by Viridian Landscape (see Appendices 1a and 2).

Crucially, the absence of any photomontages to illustrate the potential visual impacts of the proposals (based on the height, scale and massing information provided) is a notable deficiency of the LVA. This is particularly concerning given the absence of any photo viewpoints from either the existing extent of Porthkerry Park or the proposed extension, which are acknowledged throughout the LVA as being particularly, highly sensitive.

The proposed planting illustrated on the Indicative Concept Masterplan and accompanying Green Infrastructure Parameter Plan cannot reasonably be regarded as ‘extensive’ and is considered entirely insufficient to mitigate the proposals in landscape and visual terms, appearing to comprise only single lines of new tree planting in several key locations adjacent to buildings up to 14m in height.

Indeed, the EIA Screening Opinion adopted by the Council in May 2019 (Ref: 2019/00254/SC1) explicitly stated in terms of landscape and visual, that “The allocation of the land, which accepts the principle of the development, *does not* infer that there would not/could not be significant impacts” (*our emphasis*). In the absence of further visualisations from the proposed Porthkerry Park extension, it is therefore entirely unknown whether the minimal levels of mitigation proposed would be capable of mitigating the potentially significant impacts of the development to acceptable levels.

In this regard, it is considered that it also cannot be demonstrated whether potential alternative designs would have a greater or lesser landscape and visual impact, or whether the scale and layout of the currently proposed development in fact accords with the 'principle' of development at the Enterprise Zone allocation, which is still dependent upon a consideration of the planning balance of the site's allocation against the likely harm to the landscape and environment.

Ecology

As set out in the initial ecology findings prepared by Hawkeswood Ecology and submitted as part of our previous PAC comments (Appendix 1b), concerns had already been raised regarding the quantity and robustness of ecological information, particularly in terms of European Protected Species. Although additional information has been provided, there is still the notable absence of ecological surveys pertaining to areas of ecological importance outside of the application boundary but still within land in the control of the applicant.

It is noted that the draft Cardiff Airport and Gateway Enterprise Zone SPG, the document makes the recommendation that the ecological appraisals concerning the land to the south of Port Road "...includes the country park extension land as practical and cost implications may arise in the event that protected species are identified on this part of the land. The appraisal should assess the suitability of the habitat for all protected species⁵".

In this regard, Appendix 1b contains the results of initial, short-term transect surveys previously undertaken in respect of bats. In the intervening period, further ecological surveys have been undertaken by Hawkeswood Ecology, the results of which are included at Appendix 3. These show that the following species of bat are present and utilise these areas of habitat:

- Brown long-eared;
- Common pipistrelle;
- Daubenton's;
- Lesser horseshoe;
- Noctule;
- Serotine;
- Soprano pipistrelle; and
- Whiskered.

The onus is on the applicant to demonstrate that the proposed development is acceptable in terms of impacts on the environment and it has been within the ability of the applicant to undertake surveys of these ecologically significant areas. In the absence of such information, it is entirely unclear how a full understanding of the potential impacts of the development on protected species and, consequently, a reasoned and balanced planning judgement can be arrived at.

In this regard, it is noted that the EIA Screening Opinion adopted by the Local Planning Authority (LPA) stated that "It is therefore considered that the impact of the development in relation to ecology can, in likelihood, be mitigated." This statement, particularly at the time of adoption of the EIA Screening Opinion when no substantial ecological evidence had been provided, is considered unjustified and highly prejudicial to the consideration of the application.

⁵ Draft Cardiff Airport and Gateway Enterprise Zone SPG, Paragraph 6.1.11

Moreover, notwithstanding that no EIA Scoping Opinion has been adopted by the LPA, it is highly concerning that the submitted Environmental Statement (ES) does not seek to address the ecological impacts of the proposed development given the proximity of the site to several Sites of Importance for Nature Conservation, including:

- North West Bullhouse Brook (SINC Ref: 328);
- North Bullhouse Brook (SINC Ref: 329);
- West of the Old Rectory (SINC Ref: 330);
- South West of Church Farm (SINC Ref: 353); and
- Porthkerry (SINC Ref: 354).

It is critical to note that North West Bullhouse Brook and North Bullhouse Brook are also identified as areas of Ancient Woodland and form a continuous 'green corridor' with additional SINC's to the east, namely:

- Knock Man Down Wood (SINC Ref: 331);
- North East of Knock Man Down Wood (SINC Ref: 332); and
- North Cwm Barri (SINC Ref: 335).

It is therefore clear that there is the potential for considerable, adverse ecological impacts as a result of the proposed development. We note that Natural Resources Wales (NRW) have also raised significant concerns in their formal response to the application in relation to European Protected Species and Foul Drainage (dated 6th September 2019). We would echo these concerns and consider that no adequate information has been provided that demonstrates that the proposals would not have any significant impacts on species protected by statute or their habitats within the vicinity of the application site.

Drainage

As set out above, it is noted that there appear to have been no significant changes to the proposed Drainage Strategy from that previously consulted on as part of the application PAC process. Accordingly, our previous concerns remain valid and are appended to these representations (Appendix 1c).

It is noted that, in response to the PAC process, Welsh Water (DCWW) objected to the proposals for the following reasons:

- Site layout should take account of the location of the sewer;
- It is unlikely that sufficient capacity exists to accommodate foul flows generated by the development; and
- The proposed development is within an area where there are water supply problems, for which no improvements are currently planned.

It is accepted that the sewer could potentially be relocated under a s185 Agreement, albeit the agreement of DCWW would be required. However, DCWW's response specifically required the undertaking of a Hydraulic Modelling Assessment (HMA) in relation to foul flows and potable water supply, adding that development will not be supported where there are "no known solutions." These comments were echoed in the formal application response received from NRW (6th September 2019). It was also recommended the HMA be undertaken prior to the submission of the application.

However, no HMA has been submitted as part of the application. It is therefore currently unknown whether the existing infrastructure in the area is capable of supporting the proposed development.

We note that further comments have been received from DCWW as part of the application consultation process (29th August 2019), which appears to suggest a potential planning condition for the submission of an HMA prior to the submission of any reserved matters applications. This is contrary to DCWW's preference for such assessments to be provided up front as part of an application submission, setting out that development should not be supported where there are no known solutions.

Notwithstanding the issues raised above concerning capacity, which align with our concerns already raised, we hereby reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership of our client, include the garden of their private residence. Although this was highlighted to the applicant in our PAC response, no revisions have been made to take account of this. In response to DCWW's objection, the PAC Report states that an initial meeting with key stakeholders was 'organised for August 2019'. As the landowners beneath part of the currently proposed foul sewer route, our client has requested to be party to such meetings. To date however, no meetings have been arranged.

In preliminary discussions, DCWW have indicated that they have serious reservations regarding the foul sewer route as currently proposed, given that the route passes through the private, residential curtilage of The Old Rectory, as well as in close vicinity to a number of trees, existing buildings and areas of Ancient Woodland and the resultant technical challenges around crossing the brook and entering the pumping station compound.

Moreover, as indicated as part of DWCC's comments, a 3m buffer either side (total corridor of 6m in width) of the proposed sewer would need to be left free from development and fully accessible to allow the required ongoing maintenance by the statutory undertaker. As illustrated by the Preliminary Drainage Strategy Layout, the route of the proposed foul sewer crosses through the SINC's and areas of Ancient Woodland previously identified in a number of places. This would clearly have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species, as set out within Appendix 3.

Consequently, the Drainage Strategy as currently proposed is undeliverable as it would require the consent of a third party.

Notwithstanding the above, as set out within the previous review of the submitted Sustainable Drainage Assessment (SDA) by Stantec (Appendix 1c), it is considered likely based on the new Sustainable Drainage Systems Standard for Wales that the storage volume available within the proposed attenuation basins would be insufficient and consequently, would not comply with the requirement to prevent an increase in flood risk on the receiving watercourses of Bullhouse Brook and Whitelands Brook.

As set out previously within these representations, The Old Rectory is surrounded by a number of formally identified areas of Ancient Woodland. Correspondence from the Woodland Trust (Appendix 4) confirms that the trees are considered to have heritage and biodiversity value both intrinsically, as well as for the wildlife they support. Historic mapping attached to the Woodland Trust correspondence shows that these trees were mature at the time the map was prepared in 1879, and therefore are likely to have existed for a considerable time before this.

Specific concerns have also been raised by the Woodland Trust in respect of the proposed surface water and foul drainage strategy. In terms of the surface water strategy, in the event that the attenuation ponds are incapable of sufficiently supporting the development, any additional discharge directed to the two brooks will inevitably increase the risk of flooding with the risk of direct harm to biodiversity in their vicinity.

Additionally, the foul drainage strategy shows the proposed foul sewer passing within the Root Protection Areas (RPAs) of several trees within the areas of Ancient Woodland around The Old Rectory. Notwithstanding our comments regarding the undeliverability of this route, there is therefore also the potential for these trees to be significantly damaged during the construction process, as well as during future maintenance within the easement required by DCWW.

Given our concerns in terms of the proposed drainage strategy, it is therefore considered there is a serious risk of potential impacts on Ancient Woodland and protected species in the vicinity of the brooks. In accordance with PPW which, as set out previously, seeks to avoid adverse environmental effects in the first instance, especially with regards to biodiversity, there are considerable risks that the proposed drainage strategy could have serious implications for existing habitats and protected species off-site.

We would also note that the Vale of Glamorgan Drainage and Engineering Officer have now provided comments in relation to the proposals. However, these comments are extremely lacking in detail and do not provide any assessment of the proposed Drainage Strategy, instead deferring consideration until a detailed drainage scheme is provided as part of suggested condition. Due to the EIA nature and scale of the proposals, this is considered inappropriate, as the ability of the drainage strategy to support the development without leading to any increased risk of flooding elsewhere is fundamental to the acceptability of the proposed development.

Moreover, as the Sustainable drainage Approval Body (SAB) will be expected to adopt and maintain the SuDS aspects of the scheme, it is felt that comments should also be provided in relation to the remaining SuDS criteria (S2-S6).

Summary

In summary, we continue to have significant reservations regarding the proposals, many of which have been previously raised and continue to be unaddressed by the applicant. Many of these concerns have also been independently raised by statutory consultees, public representors, stakeholders, as well as local and national political representatives for the area.

In conclusion, we consider that a great number of concerns remain and must be addressed before the proposals can be appropriately determined.

Yours sincerely,



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Senior Planner

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Date: 9th April 2021
Our Ref: LF/MG/19.8060

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Dear Mr Rowlands,

Proposed Parc Busnes Porth Cymru Business Park (Ref: 2019/00871/OUT)
Land at Model Farm, Port Road, Rhoose, CF62 3BB
Additional Representations on behalf of The Stevens Family

Further to previous representations submitted on behalf of Mr and Mrs Stevens of The Old Rectory submitted on 25th October 2019, please find additional comments prepared by Boyer in response to the outline application submitted on behalf of Legal & General in relation to the proposed Parc Business Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhoose (Ref: 2019/00871/OUT).

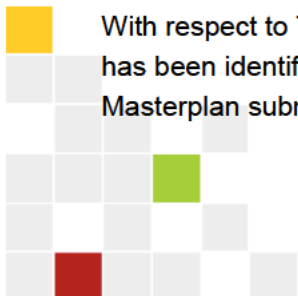
Representations have also been submitted to Welsh Government's previous consultation of the draft National Development Framework (now published as Future Wales: the National Plan 2040. We do not intend to replicate, *ad nauseam*, these previous comments, which nevertheless remain valid and are felt to still remain to be addressed by the applicant.

These additional representations are specifically made in relation to comments that have recently been submitted by Transport for Wales (TfW), which is now publicly owned by the Welsh Government. These comments suggest that the Welsh Government continues to seek the future provision of a new rapid transit link to Cardiff Airport, potentially in the form a new rail link, which we still consider to be inappropriate, unfeasible and unviable proposition.

Transport for Wales – Updated Comments (4th March 2021)

We have made numerous representations previously in respect of the proposed development at the site, including as part of the Vale of Glamorgan (VoG) Local Development Plan (LDP) Examination in Public, the Pre-Application Consultation (PAC) process and following the initial submission of the outline application in August 2019. Additionally, these representations have addressed the previous proposals for a 'rail spur' link from the existing rail line to the airport along a different route via Porthkerry Park.

With respect to TfW's latest comments, it appears that a new 'indicative' route for a rapid transit link has been identified by Welsh Government, which seems to already be the Indicative Concept Masterplan submitted by the applicant (10th March 2021), including an indicative area for a new



station adjacent to the existing residential properties along Porthkerry Road, which is crossed by the indicative corridor in a number of locations within this area.

Should these proposals come forward, it would result in a demonstrable and significant, adverse impact on the amenity of the existing residential properties along Porthkerry Road, both in terms of noise, privacy and access. This would particularly be the case should a new station be provided immediately adjacent to an existing residential curtilage. This location would also be the extreme south-western edge of the Model Farm proposals and consequently, the benefits are not considered to outweigh the significant impacts on nearby dwellings.

It is also fundamentally unclear from the plan provided how such a rail link could be provided without significant disruption to Porthkerry Road, which passes along the airport's perimeter and provide direct access to these residences, as well as the lane that provides sole access to our client's private property at The Old Rectory, in addition to a Dwr Cymru/Welsh Water sewage pumping station at the end of the lane. The plans are unclear as to what subsequent arrangement Porthkerry Road would take and how access to these private properties and crucial infrastructure could be maintained and not adversely affected.

Furthermore, as has been demonstrated in our previous representations, passenger numbers at Cardiff Airport and expected transit numbers, in our view, do not justify the enormous financial expense required for the suggested rail link, particularly given the significant pressure upon public finances caused by the unprecedented and ongoing impacts of the Covid-19 pandemic. Moreover, rail users can already access the airport via Rhose-Cardiff International Airport rail station, which is connected by a direct shuttle to the airport's terminal just 1.5km to the north-east.

As has been acknowledged by the revised Transport Implementation Strategy submitted by the applicant (12th March 2021), the pandemic has resulted in far-reaching changes to work and travel patterns, particularly in the case of office working, which can be undertaken from home with the increased uptake in working virtually. Public opinion is increasingly showing that this increase in home working is highly likely to continue in the long-term.

Indeed, the Welsh Government itself has formally stated that it wishes to promote a long-term shift to remote-working, with the aim of 30% of the Welsh workforce working remotely¹. This therefore raises fundamental concerns regarding the viability of the proposed development, in addition to the need for, and benefits of, an expensive and highly-disruptive transport link to the Model Farm development. It is also important to note that there was significant public opposition to the 'rail spur' when initially proposed as part of the LDP. This opposition was acknowledged by the removal of the spur from the LDP before it finally being adopted – all that remains of this proposal is a non-binding reference within the LDP's supporting text to the "consideration for a potential rail link" across the site (Para. 6.57d).

Related to this is the significant decrease in the usage of both international travel and public transport as a result of the Covid-19 pandemic, caused both as a result of a lesser need to travel for work and travel restrictions, as well as a greater need for social distancing. While it is unclear how long-term any of these trends will be and while it can reasonably be expected that travel patterns will at some point return, at least partially, to pre-Covid 'norms' as vaccination programs progress, greater social awareness of public health and the transmission of novel diseases suggests that

¹ <https://gov.wales/aim-30-welsh-workforce-work-remotely>; <https://gov.wales/remote-working>

many people who cannot work from home will choose to use private cars, rather than mass public transport.

This not only raises additional questions over the levels of demand for a rapid transit link to the airport, but also the transport implications of the Model Farm proposals, with fewer people likely needing to travel to work and those that do, more likely to use private transport to do so. In this regard, we are keen to see the Council's assessment of the revised Transport Implementation Strategy submitted by the applicant and reserve the right to provide additional comments when this is published.

Furthermore, the TfW comments clarify that there is currently no funding commitment from the Welsh Government to provide the transit link, whether in the form of a rail link or otherwise. Moreover, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the Development Plan for an area, unless material considerations indicate otherwise.

Consequently, it is important to clarify that, while these comments are submitted by TfW and supported by the Welsh Government, in planning and legal terms, they nevertheless carry *no material weight* in the consideration of the application over and above that of any other consultee. Additionally, given the high costs associated with the land acquisition, land movements, construction work and other operations necessary to provide a rail link, delivery of this link is highly uncertain and should therefore have no bearing on the consideration of the application.

Summary

In summary, we continue to have significant reservations regarding the proposals, many of which have been previously raised and continue to be unaddressed by the applicant, which it is felt must be resolved before the proposals can be appropriately determined.

In terms of the newly identified route for a potential rapid transit link, it is considered crucial to note there is no legal basis for the 'request' by Welsh Government via TfW for an indicative corridor to be safeguarded for development, as this would be outside of the policies of the currently adopted Development Plan, the requirement for which was specifically excluded from Policy MG10 of the LDP.

Notwithstanding the demonstrable uncertainty surrounding the viability and feasibility of such a proposal, it would therefore be unlawful for the Council or Welsh Government to insist upon the provision of such a corridor, which would effectively 'sterilise' part of the land from development, while the provision by the applicant of such a corridor should in no way be regarded as a positive material consideration in the determination of the planning application.

Yours sincerely,



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Our Ref: AM/SB/19.8060

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Dear Mr Rowlands,

Proposed Parc Busnes Porth Cymru Business Park (Ref: 2019/00871/OUT)
Land at Model Farm, Port Road, Rhoose, CF62 3BB
Additional Representations on behalf of The Stevens Family

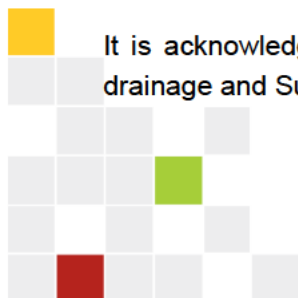
Further to previous representations submitted on behalf of Mr and Mrs Stevens of The Old Rectory submitted between 2019 and 2021, pleased find additional comments prepared by Boyer in response to the outline application submitted on behalf of Legal & General in relation to the proposed Parc Busnes Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhoose (Ref: 2019/00871/OUT).

These additional representations are specifically made in relation to the proposed hybrid application detailed in the Planning Committee report for the upcoming meeting on 14th July 2021, in which The Vale of Glamorgan attach the recommendation to approve subject to conditions. Having reviewed the Committee Report we uphold previous comments made regarding matters surrounding transport, drainage and ecology as detailed below.

Drainage

Although the application is recognised as an hybrid proposal, with outline permission sought for the business park to the north and full planning for the change of use of land to the south, due to the proximity of the application site to The Old Rectory, our position on the proposed impacts on drainage remains. As detailed in the Committee Report, Dwr Cymru / Welsh Water and Natural Resource Wales both note that the local drainage infrastructure is considered inadequate to accommodate the proposed capacity of this development. Noting the lack of plans to improve capacity and risk of overwhelming the public sewerage, Dwr Cymru / Welsh Water concerns remain where it is '*unlikely that sufficient capacity exists to accommodate the development without causing detriment to the existing services*' that includes the Porthkerry Sewerage Pumping Station adjacent to The Old Rectory. Comments raised by Dwr Cymru / Welsh Water further highlight the failure to identify a suitable point of communication for the proposed development site to be served by adequate water supply.

It is acknowledged that condition 8c addresses the impact of proposed excavation works for the drainage and SuDS proposal on existing trees, however the works continue to raise concern towards



the proximity of the proposed sewer and risk of direct damage to the Root Protection Area of several old trees located within the curtilage of The Old Rectory. Moreover, additional surface water drainage carried by the existing streams that may arise from a reduction of permeability of land threaten several of the old oaks positioned directly on the banks of the streams.

As detailed within Condition 9, a foul water drainage scheme is to be agreed prior to approval of reserved matters or commencement of development for that site and/or other identified. Also Condition 10 requires that no development shall take place on any phase of development, until a point of connection on the public sewerage system for that phase and/or other identified part, has been identified by a hydraulic modelling assessment. This is significant ambiguity on this point.

Condition 12 relates to the proposed SuDS for surface water disposal, where the proposed designated SuDS attenuation areas surrounds the boundary of our client's land reservations remain on the impact this may have on private land of The Old Rectory.

The Council is reminded that where plans seek to go through and surround our client's land we must be made aware and kept informed in full detail as the issue is dealt with by reserved matters.

Transport

Numerous representations have previously been made relating to the proposed development's impact on transport. Additional concern is raised where the transport assessment is *'notably reliant upon infrastructure improvement in the locality, in order to promote travel by means other than private car'*, yet it is noted that the development would fail to deliver the footway and cycle way itself. Where the site has poor existing public transport and active travel connectivity, if approved, the development must ensure it does not result in unacceptable traffic impacts within the locality and wider transport network.

Ecology

Reservations are made towards the impacts of habitat loss and hedgerow loss on the number of rare species that have been recorded on site. Although the Committee Report states such species are principally woodland species and unlikely to be adversely affected by the development, they still hold significant ecological value to the surrounding land and Porthkerry Country Park. The ecological information provided by on behalf of Mr and Mrs Stevens previously noted that in their review it was highly suggestive of a wider presence of protected biodiversity within both the area immediately adjacent to the proposed development, as well as the application site itself. Consequently, it is considered that further information and detail was required in order to make an informed conclusion regarding the likely impacts of the proposed development upon protected species and wider ecological assets.

We note Condition 6 and 7 which refer to an updated Precautionary Dormouse Strategy and Biodiversity Management Strategy, however suggest that these must carefully consider the impact of the proposal on the existing habitat and extended area to ensure no harm to the abundant adjoining wildlife and ecology.

Summary

In summary, we continue to have reservations regarding the proposals, many of which have been previously raised and continue to be unaddressed by the applicant, which it is felt must be resolved before the proposals can be appropriately determined.

To conclude, the submitted Committee Report continues to raise concerns regarding drainage, transport and ecology. The Council is reminded that where plans seek to go through and surround our client's land we must be kept informed as the issue is addressed.

Yours sincerely,

A large black rectangular box redacting the signature of Simon Barry.

Simon Barry
Associate Director

Tel: 

Email: 



MODEL FARM, RHOOSE: LANDSCAPE AND VISUAL APPRAISAL PRODUCED BY RPS

Audit of final LVA (26th July 2019) following Viridian Landscape Planning Review (9th July 2019)

The following table compares the final LVA of 26th July 2019 with the comments in Viridian Landscape Planning's review of the LVA of 10th June 2019.

VLP Review reference	RPS reference LVA 10 th June 2019	Issue	Point Addressed	Comment
2.1.2	Methodology – no page or paragraph references	Welsh Guidance not referenced.	Yes	
2.1.3	Methodology – no page or paragraph references	References in incorrect location.	Yes	
2.1.4	Table 1	Table 1 needs correct references	Yes	
2.1.5	Methodology – no page or paragraph references	References in incorrect location.	Yes	
2.1.6	Methodology – no page or paragraph references	No table of criteria for value of views	No	There are criteria for landscape value but not views, therefore methodology lacks consistency and transparency in that area.
3.1.1	Executive Summary – no page or paragraph references	Features not shown on plans.	Partly	All features identified are now shown, but Green Wedge not shown. Planting now shown on Indicative Concept Masterplan but consists of mostly narrow strips rather than 'extensive'.
4.1.2	1.7	Little description of mitigation measures, nor how they provide mitigation. .	Yes	New paragraphs 5.6 and 5.7.
4.1.3	1.8	Paragraph is only mention of year 1 and year 10 assessment periods in text.	Partly	Paragraph has been deleted. However, at para 9.13, Years 1 and 10 now appear but only to cover short-range views (VPs 1 – 6), and do not appear in the



VLP Review reference	RPS reference LVA 10 th June 2019	Issue	Point Addressed	Comment
				tables. which implies that mitigation is only effective in views less than 500m from the site. There is no explanation of what mitigation results in the reduction in effects with reference to those views.
4.1.5	2.1	Welsh Guidance not referenced.	Yes	
4.1.6	3.3	Heights of origin points not stated.	Yes	Now added to Figure 5.
4.1.8	3.11	Winter effects based on professional judgement.	No	
5.1.1	7.2	Effect on site topography inconsistent with Table 1	Yes	Corrected
5.13	Section 8	Headed 'Effect on Landscape Character' but is an analysis of existing character.	Yes	New Section 8 introduced.
5.1.4	8.1	Understated effects on site landform.	Yes	Addressed at 7.2.
5.1.6	Section 8 Conclusion	No mention of effects of development on character.	Yes	Addressed in new Section 8.
5.1.7	Section 9	Assessment of effects only on Rhooose Hinterland.	Yes	Addressed in new Section 8.
5.1.8	9.1	Inconsistent reporting compared with Table 8	Yes	Now addressed in Section 8.
6.1.1	Section 10	Inconsistency between text and Table 3.	Partly	Now reported in Section 9. Porthkerry Stables and Lower Porthkerry Farm text still inconsistent with Table 3.
6.1.2	Section 10	Properties are not clearly shown on a plan.	No	



VLP Review reference	RPS reference LVA 10 th June 2019	Issue	Point Addressed	Comment
6.1.3	10.13	Visual effects inconsistently reported in Table 3.	No	VPS 9, 10 and 11 have been changed but still inconsistent with Table 3.
6.1.4		No viewpoints on footpath P4/17/1	Yes	VPs 2 and 2A have been included, but only from the upper part of the path. Paragraph 9.10 repeats the inaccuracy from the June 2019 LVA.
7.1.1		Public rights of way not clearly shown on a plan.	No	Shown unclearly on base plans and incorrectly on Indicative Concept Masterplan.
7.1.2		Footpath numbers referred to in text are not shown on a plan.	No	
7.1.3	Figure 2	SLA or Country Park not shown.	Partly	SLA now shown, but Country Park not shown, only LANDMAP Aspect Area Porthkerry Country Park and Environs. The 'Environs' are not the Country Park.
7.1.4	Figures 4d and 4f	Categories in random order and tones.	No	
7.1.5	Figure 5.	Viewpoint locations not clear.	No	
7.1.6	Indicative Concept Masterplan	Footpath P4/17/1 incorrectly shown on east side of woodland.	No	Potential viewpoints from sensitive receptor still omitted – see VLP viewpoint VLP -B.
7.1.7		Restricted byway not shown	No	
8.1.1	Photosheets	No annotations or visualisations	No	



VLP Review reference	RPS reference LVA 10 th June 2019	Issue	Point Addressed	Comment
8.1.4	VP 2	Photograph not taken from location shown on plan.	Yes	New viewpoints 2A and 2B. although 2A is taken above a hedge and not as open as VLP-G/RPS 2.
8.1.4	VP 2	Table 3 inaccurate as proposed development likely to obscure, not be seen in front of, existing development.	No	
8.1.5	VP 4	Table 3 inaccurate as proposed development likely to obscure, not be seen against a background of, existing development.	No	
8.1.6 and 8.1.7	VP 6	Table 3 inaccurate as proposed development likely to obscure, not be seen against a backdrop of, existing development. Much of land along skyline would be developed.	No	
8.1.8	VP 7	National Cycle Route not taken account of in sensitivity.	No	
8.1.9	VP 8	Description in Table 3 does not demonstrate the change.	No	
8.1.10	VPs 9 – 12	Photographs out of focus	Partly	12 is still out of focus.



VLP Review reference	RPS reference LVA 10 th June 2019	Issue	Point Addressed	Comment
8.1.11 to 8.1.13		VPs on footpath P ₄ /17/1	No	No viewpoints included.

HAWKESWOOD ECOLOGY

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REVIEW OF PRELIMINARY ECOLOGICAL APPRAISAL FOR PARC BUSNES PORTH CYMRU AND INITIAL BAT ACTIVITY SURVEYS AT THE OLD RECTORY, PORTHKERRY.

ON BEHALF OF

HEATHER AND DAVID STEVENS

October 2019

Ref: HE/15/2019
Issue 3 09/10/2019

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We confirm that in preparing this Report we have exercised reasonable skill and care, taking into account the project objectives, the agreed scope of the work, prevailing site conditions and the degree of manpower and resources allocated to the project.

All habitat and protected species surveys present a ‘snapshot’ of conditions existing and species present, or considered having potential to be present, at the time of survey. Many species are mobile and distributions can vary across time. Results and findings presented in this report should be considered with these factors in mind.

Protected species surveys are recognised as having a ‘shelf life’ of two years maximum. Surveys older than this are unlikely to be accepted by a Local Planning Authority or Natural Resources Wales as viable documentation.

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1 INTRODUCTION

- 1.1 Hawkeswood Ecology was instructed by Heather and David Stevens to undertake a review of a Preliminary Ecological Appraisal carried out by RPS Ltd on the Site of the proposed Parc Busnes Porth Cymru based on land encompassing Model Farm, Vale of Glamorgan and also to undertake bat activity surveys of the land in ownership of Heather and David at The Old Rectory, Porthkerry.
- 1.2 The Site was surveyed as part of a different application by Pryce Consultant Ecologists (PCE) and reported on in May 2012. This report, although considered to be out of date was also assessed for any obvious changes in habitat value between 2012 and 2019. This survey also contains the results of initial bat activity surveys and assessments across the Site which are of value when assessing the importance of the area for protected species.
- 1.3 The aims of the current report are to:
 - Appraise the RPS Ltd Preliminary Ecological Appraisal in relation to content and findings;
 - To undertake bat activity surveys and passive detector survey on land in and adjacent to The Old Rectory to allow an assessment of bat use across the Site to be made.
- 1.4 An initial bat transect was undertaken on 4th July 2019. Passive recording devices were sited over two periods, 1st to 4th July 2019 and 6th to 9th September 2019.

2 SURVEY TEAM EXPERIENCE

- 2.1 The lead surveyor and report author is Eric Hawkeswood. Eric has many years experience of broad habitat and detailed botanical and species surveying. Eric has been an active member of the Brecknock Bat Group since 1999 and been involved in a number of long running surveys within the county. He is a Natural Resources Wales (NRW) licensed bat worker (no. S085546/1) and has extensive experience of roost inspections (buildings and trees), emergence and activity survey. He has been a professional in the nature conservation field for thirty years formerly working as Reserves Manager and Conservation Officer at Gwent Wildlife Trust and Woodland Manager for the Ruperra Conservation Trust. Eric has worked as an Ecological Consultant as joint proprietor of Hawkeswood Ecology since 2001.
- 2.2 Assistant surveyors on the evening activity survey were Niki Hawkeswood, Emma Adamson and Liam Kelly. Niki is a Partner and Principal Ecologist at Hawkeswood Ecology and along with Emma has undertaken bat observation surveys for over 14 years. Liam has worked with Hawkeswood Ecology since 2012 and gained much experience in emergence and bat activity survey over that period.

3 METHODOLOGY AND CONSTRAINTS

Review of documentation

- 3.1 A desktop review of the RPS Ltd Preliminary Ecological Appraisal was made. An earlier report by Pryce Ecological Consultants was also assessed, particularly in relation to bat survey findings.

Bats

- 3.2 The study methodology was based on accepted guidelines set out in the Bat Conservation Trust document '*Bat Surveys for Professional Ecologists, Good Practice Guidelines*' 2016.
- 3.3 Two transects were walked on the land around The Old Rectory (see Figure 1) with two observers in each team for safety purposes.
- 3.4 Recordings were made continuously on the Anabat Express and hand held EM3 machines. The recordings were analysed using AnalookW and Batsound software, by use of which it is possible to separate most species present from the sonograms produced.
- 3.5 In addition, Anabat Express machines were located as shown in Figure 2 for two periods allowing a more detailed picture of how bats use this part of the Site to be made. In the later period, machines were also placed out to the north of the application Site. Along with other survey data, potential bat use across the wider area could be extrapolated.

Constraints

- 3.6 The bat surveys did not commence until July 2019. Although this is in the peak maternity season, it did not allow a picture of activity across the Site in the earlier part of the activity season when bats are returning from hibernation. Given the intent of this survey to principally identify the species present and likely to be present in the wider area, this is not considered to be a major constraint to the survey findings.

4 REVIEW OF THE RPS LTD PRELIMINARY ECOLOGICAL APPRAISAL

Introduction

- 4.1 A Preliminary Ecological Appraisal (PEA) has been produced by RPS Ltd to support the planning application for Parc Busnes Porth Cymru. This document is available from the online planning application service of Vale of Glamorgan County Council and is in the Public Domain. The document is entitled '*Preliminary Ecological Appraisal, Model Farm, Port Road, Rhoose – RPS Group PLC*' and was issued on June 18th by RPS Ltd. It reports on a visit to the application Site made on 16th May 2019.
- 4.2 Production of reports and the details within vary from company to company, any comments here are not intended as criticisms of RPS Ltd and the work produced, but aimed at selecting areas where Hawkeswood Ecology consider further information could or should have been supplied or querying elements of the findings where apparent or implied omissions need further clarification. It is also pertinent to say that we are not privy to the instructions received by RPS Group PLC which are likely to have dictated the survey and its reporting, however, any application must provide sufficient information for an informed decision to be made by the Local Planning Authority. To this end, it was also considered that the earlier works by PCE provided relevant information even though the surveys are technically out of date.
- 4.3 Our general impression of the RPS report is that it is a satisfactory piece of work but is brief, lacking in detail and based on possibly inadequate field work. It would appear that the field survey was not given an appropriate amount of time to accumulate important data, a concern that is supported by the report limitations, Section 2 paragraph 2.6, where it is stated '*Due to the size of the Site it was not possible to undertake a comprehensive search for protected and notable species in one visit*'. This concern is heightened by comments made in paragraph 2.4 that '*Where they were encountered invasive non-native plants listed in Schedule 9 of the Wildlife and Countryside Act 1981 (as amended in 2010) were recorded, **but a comprehensive search was outside of the survey scope given the size and complexity of the Site***' (Hawkeswood Ecology bold type).
- 4.4 It is the responsibility of the client to ensure the survey is to a standard that will allow the necessary information to be gained and any constraint limiting survey time is not considered appropriate in the case of such a large scale development.

Desk Top Study

- 4.5 The desk top study is limited in both scope and reporting. For a development of this size and complexity, a search area of 2 kilometres is not considered appropriate. In addition, this will not take into account the presence of widely foraging species such as horseshoe bats which were found to be present across the Site (see Section 5) in surveys undertaken by Hawkeswood Ecology, but are not reported in the Desk Top Study results even though there are earlier records of them at the Site in 2012 (Pryce Consultant Ecologists).
- 4.6 This limitation is further compounded by only disclosing records of protected and priority species reported within the last five years; there is no justification for this and it gives a potentially false impression of the site value for bats and possibly other species such as breeding birds. We do not consider data older than five years can be considered 'historic', many records may still be relevant

and pertinent in informing both further survey and in portraying the importance of the application Site and wider area.

- 4.7 In particular, the lack of information relating to horseshoe species bats is concerning with known lesser horseshoe bat maternity roost to both the east west and south of the Site; a high probability that they will be present on the Site can be expected. A known roost of lesser horseshoe bats lies less than 3 kilometres from the nearest point of the proposed development Site. It is normal practice for a Local Records Centre biological data search to include data from ‘mobile’ species such as bats outside the buffer and we would have expected such important species to be reported.

Field Survey

- 4.8 With regard to habitat descriptions, the survey findings are extremely brief and not expanded in the target notes. Whilst the survey area is largely dominated by arable and agriculturally improved grassland, it supports a number of woodland blocks and a well connected hedgerow network; it is considered that neither the woods nor the hedgerows are adequately described.
- 4.9 The woodland block descriptions contain little specific floristic information with paragraph 3.7 describing a woodland block at TN2 being the most comprehensive. However, given the time of year the survey was undertaken, at the peak of the woodland survey season, a more complete species list could possibly have been expected. Descriptions of the other woodland blocks are lacking in detail and it is considered that a proper judgment of their value is not possible from the information supplied.
- 4.10 The majority of the target notes appear to be related to the woodland blocks, but again, these contain no subjective information. These show pictures of woodland blocks containing mature and clearly high bat roost potential trees that are inevitably judged to be only of moderate bat potential. No species lists are provided and at no point are the methodologies for valuing the trees for protected species discussed.
- 4.11 All hedgerows are described as ‘species poor’ but there is no information provided to support this finding. The only comment relating to the floristic diversity of the hedgerows is found in paragraph 4.18 where it is stated that ‘*The majority of hedgerows on site supported at least 7 woody species across their length.....However the lack of floral diversity over a shorter length (i.e.30m) resulted in them being classed as species poor...*’. We would expect the species lists to be provided to support this conclusion.
- 4.12 We note the evaluation of the woodland blocks considered them to be of ‘high ecological value’ but only in the context of the Site (paragraph 4.5). The evaluation goes on to state in paragraph 4.6 that many of the main woodland blocks are designated as SINC; given that Table 6 gives a further seven broad-leaved woodland SINC sites within 2 kilometres of the application site a number of ancient woodland indicator species were found, we would contend that the report undervalues the importance of the woodland blocks and that they are likely to be part of an important much wider network of woodland.

Protected Species

- 4.13 No species specific surveys have been reported to the LPA or are available on the planning portal to our knowledge at the time of writing this report. The potential of the Site to support protected species is made clear as is the requirement for further information which is particularly key to the decision making process. It is considered that an informed decision in regard to the development taking place cannot be made without specific survey data being provided.
- 4.14 The survey reports that no direct evidence of bats was noted but that the site supports suitable bat roosting habitat. No specific Preliminary Roost Appraisals are reported yet the woodland and farm buildings (which are first mentioned in the PEA paragraph 3.23) are described as being of ‘moderate potential’ for bats. We are unsure of the methodology used to come to this conclusion and would suggest it undervalues both the woodland and some of the farm buildings.
- 4.15 We note further survey is recommended in Section 5 for a number of protected species including bats and these are considered necessary to properly assess the impacts of the proposals upon them. We also note that hedgerow surveys are recommended and it is assumed these will comply with the guidelines set out in the Hedgerow Regulations (1997). The recommended surveys generally reflect the species most likely to be found on Site and are commensurate with the size of the development proposals.
- 4.16 Without the further detail being furnished it is not possible to draw any substantive predictions as to the potential impacts on these groups. At this stage, not even preliminary impacts have been identified within the report.

Target Notes

- 4.17 The Target Notes are particularly brief and do not contain detail. It seems that only a selection of hedgerows has been target noted and full picture of the Site has not been presented. The reference to bat roost potential is difficult to understand as the rationale has not been fully explained; there is no methodology for protected species searches in general. As mentioned earlier, assessment of bat roost potential is at best subjective, however, it would appear from the photographs that a number of trees appear to support a number of potential roost features and would most probably be of high potential for supporting roosting bats.

Pryce Ecological Consultants report, 2009

- 4.18 A report on a survey for an earlier application was also appraised by Hawkeswood Ecology in this report. Pryce Consultant Ecologists (PCE) carried out surveys across an area that includes the present application site in 2012 and reported their findings as ‘Vale of Glamorgan Local Development Plan Public Consultation; MG12(2) Employment Allocation and MG20(5) Rail Link to Cardiff Airport – Ecological Survey and Evaluation’ issued in March 2012.
- 4.19 That survey contained little detailed information of the application area and did not report individual hedgerows or woodland blocks. It did carry out initial protected species surveys and, although undertaken very early in the season, recorded lesser horseshoe bats across the Site along with records of common and soprano pipistrelle.

- 4.20 A main badger sett was reported in or near the current application site, but there was no direct evidence of dormouse or otter reported. The survey was extremely constrained by the time of year it was undertaken but did also report the need for further targeted survey.

5 HAWKESWOOD ECOLOGY BAT SURVEYS 2019

Introduction

- 5.1 The surveys were limited in scope and simply intended to provide an idea of the species present in the area of The Old Rectory. A transect survey undertaken on the 4th July gave an snapshot of the species present, and leaving passive detectors out over two periods gave a more detailed impression of the use of that particular area and could be extrapolated to the animals likely to be using the wider application Site. The route of the transect surveys and the locations of the passive detectors are shown in Figures 1 and 2; sample sonograms are shown in Appendix 1.

Transect Survey

- 5.2 The conditions at the time of the transect survey undertaken in July are detailed below in Table 1:

Table 1: Weather conditions for dawn and dusk observations:

Date	Survey type	Times	Weather conditions
4 th July 2019	Evening Activity	21.25 – 23.23 (sunset 21.32)	19 -18°C, Clear, humid. Dry, good visibility, still.

- 5.3 The first bats noted were common pipistrelles emerging from The Old Rectory. A total count of 47 bats were counted emerging between 21.05 and 21.25 when the transect surveys commenced; bats were still emerging so the count does not represent a total roost number. The bats were noted flying to the trees and along the lane-side hedgerow toward the woodland block to the east of the buildings and garden. Both common and soprano pipistrelles were noted foraging around the gardens and another roost of unspecified pipistrelle bats was noted with emergence from the western wing ridge.
- 5.4 The transect routes encompassed the grounds of The Old Rectory. Transect 1 covered the formal gardens and field to the east of The Old Rectory and Transect 2 the fields to the west of the buildings. The transect routes are shown in Figure 1 along with areas of peak activity, each transect was walked at a slow pace for two circuits.
- 5.5 Both transect surveys recorded mainly common and soprano pipistrelle activity along with noctule. Noctule was most frequent near the wooded areas to the north of the house and along the field boundary to the north of transect 1. Social calls of these species were recorded throughout.
- 5.6 Other species recorded were serotine bat (in Transect 1), brown long-eared bat and *Myotis* species bats, the sonograms most resembling Daubenton's and whiskered bats.

Passive detectors

- 5.7 The conditions during the deployment of the passive detectors are shown in Table 2 below. The machines were set to run from just before sunrise to shortly after sunset using GPS settings within the machines.

Table 2: Weather conditions during passive detectors sessions

Date	Weather conditions
1/2 July 2019	High/Low 16.25-8°C, Clear, F3 w-NW breeze
2/3 July 2019	High/Low 16.5-9°C, Cloud, F3 NE breeze
3/4 July 2019	High/Low 18-10.75°C, Partial cloud, F2 NE breeze
6/7 September 2019	High/Low 15.25-10°C, partial cloud F3 NW breeze
7/8 September 2019	High/Low 16.25-9.5°C, Partial cloud, F2 NE breeze
8/9 September 2019	High/Low 14.25-10.75°C, partial cloud, F2/3 N breeze

- 5.8 In the first survey session four Anabat Express machines were located around The Old Rectory grounds in locations shown in Figure 2. All locations were near woodland blocks, streams, hedgerows or all three:
- A – in a treed hedgerow along a stream;
 - B – At the junction of a hedgerow and woodland block to the north of The Old Rectory;
 - C – In the corner of a field in a hedgerow on the edge of scrub;
 - D – In the south east of the gardens adjacent to a stream, in woodland.
- 5.9 The machines recorded over three nights from 1st to 4th July and the following species were noted (Table 3).

Table 3: Species recorded 1st July to 4th July 2019

Species	Location A	Location B	Location C	Location D
Brown long-eared	X	X	X	X
Common pipistrelle	X	X	X	X
Daubenton's				X
Lesser horseshoe		X	X	
<i>Myotis</i> sp		X		X
Noctule	X	X	X	X
Serotine	X		X	
Soprano pipistrelle	X	X	X	X
Whiskered	X	X	X	X

- 5.10 The most commonly recorded passes were of common and soprano pipistrelle with noctule frequent particularly around the wooded area to the north of the grounds. Social calls were frequent with pipistrelle species most commonly noted.

- 5.11 Lesser horseshoe was recorded along the hedge line and woodland block at locations B and C. Passes were infrequent but recorded on more than one occasion on the 1st and 4th July. Serotine was recorded at locations A and C the most eastern and western machine locations.
- 5.12 The second survey session took place over three nights in early September at locations shown in Figure 2. Two machines were placed in the grounds of The Old Rectory with three machines placed in and near buildings near the airport approach road at the northern end of the application Site. The details of the locations are shown below:
- A – On woodland edge just north of The Old Rectory;
 - B – In the corner of a field in a hedgerow on the edge of scrub (position 3 in previous survey session).

Table 4: Species recorded 6th September to 9th September 2019

Species	Location A	Location B
Brown long-eared	X	X
Common pipistrelle	X	X
Lesser horseshoe	X	X
<i>Myotis</i> sp	X	
Noctule	X	X
Serotine	X	X
Soprano pipistrelle	X	X
Whiskered	X	X

- 5.13 As with the July session, the most frequently recorded passes were common and soprano pipistrelles. Social calls of pipistrelles were most frequently recorded at Location B where at times they dominated the recordings. Lesser horseshoe was recorded at Locations A and B on the 9th September.
- 5.14 Serotine was again recorded around The Old Rectory along with *Myotis* species bats including whiskered and possibly Daubenton's bats.

Summary

- 5.15 The transect surveys recorded fairly constant activity across the Site with noctule more frequent around the woodland block and open field at the north of The Old Rectory grounds. Serotine was previously unrecorded from the Site. Prior to the transect survey two pipistrelle roosts were found in The Old Rectory building, one, a maternity roost of common pipistrelle, was located near the main entrance to the house.
- 5.16 The passive detector surveys confirmed the presence of lesser horseshoe on the Site. A minimum of eight species were identified over the course of the surveys with frequent common and soprano pipistrelle passes, *Myotis* species including whiskered bats and serotine bat.

6. DISCUSSION

- 6.1 The bat surveys were undertaken in the middle to latter part of the bat activity season but produced valuable results. Previous survey by Pryce Consultant Ecologists (2012) recorded three species of bat, common and soprano pipistrelle and lesser horseshoe across the southern parts of the current application area.
- 6.2 The current surveys undertaken by Hawkeswood Ecology identified a minimum of 9 species of bat with lesser horseshoe identified along the boundaries of The Old Rectory Grounds. Serotine bat was also confirmed in this area.
- 6.3 Clearly such a large proposed development has the potential to severely impact on bats. A number of the species recorded are extremely sensitive to artificial light spill and also to breaks in their commuting routes. Bats that could be particularly affected include the horseshoe species where it has been shown that lighting a commuting route can change the animals behaviour and delay its arrival at foraging sites, potentially leading to a lack of successful foraging periods (Stone, 2013).
- 6.4 Artificial light also has the potential to ‘trawl’ prey species from dark areas; thus moths and insects can be attracted to the light from neighbouring dark areas. Whilst this may increase prey availability for some more light tolerant species such as the pipistrelle and serotine bats, this may increase the impact on light avoiding species. Already possibly affected by the light, the dark areas now are less abundant in insect fauna for them to prey on (BCT/ILP, 2018).
- 6.5 At this stage, no detailed survey has been reported in support of the application and the information available does not offer any impact assessment on protected species. The limited surveys undertaken by Hawkeswood Ecology to date have shown that the Site does support a range of bat species. In the case of lesser horseshoe as Annex II species, the protection of the landscape in which they forage and commute must be considered.
- 6.6 The Indicative Concept Masterplan produced by RPS Ltd shows planned retention of the existing woodland blocks and the creation of landscaping areas which will extend these into the proposed development area. Whilst the proposed landscaping appears to be ‘beneficial’ in terms of the post development landscape, the development will clearly create clear breaks in the connectivity of the surrounding areas. As expressed in paragraph 6.6 this is of particular concern for some of our rarer species such as lesser horseshoe. There must also be a clear lighting plan showing in detail how any lighting impacts are to be addressed. Failure to do so could potentially lead to a breach of the Conservation of Habitats and Species Act 2017 (as amended). Impacts on other protected species, particularly dormouse, if found present, from light spill and breaks in habitat connectivity also need to be addressed.
- 6.7 Currently only a relatively brief ecological appraisal has been made of the application Sites ecological value by the applicant. In that appraisal no impacts have been predicted or addressed; even though the masterplan shows landscaping and extension of exiting woodland block, the impacts of the actual development on protected species have not been addressed.

- 6.8 In conclusion, although it is noted that further surveys have been undertaken and are yet to be reported at the current time, we would consider that there is currently insufficient information to decide the application. It would be inappropriate for this scheme, which is of a speculative nature and potentially negatively impacting upon protected species, to be assessed prior to all information being present. Hawkeswood Ecology considers the application should not be progressed until all relevant information is presented for appraisal.

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**FIGURE 1:
TRANSECT ROUTES AND AREAS OF MAIN BAT ACTIVITY**

Figure 1: Transect routes and areas of major bat activity

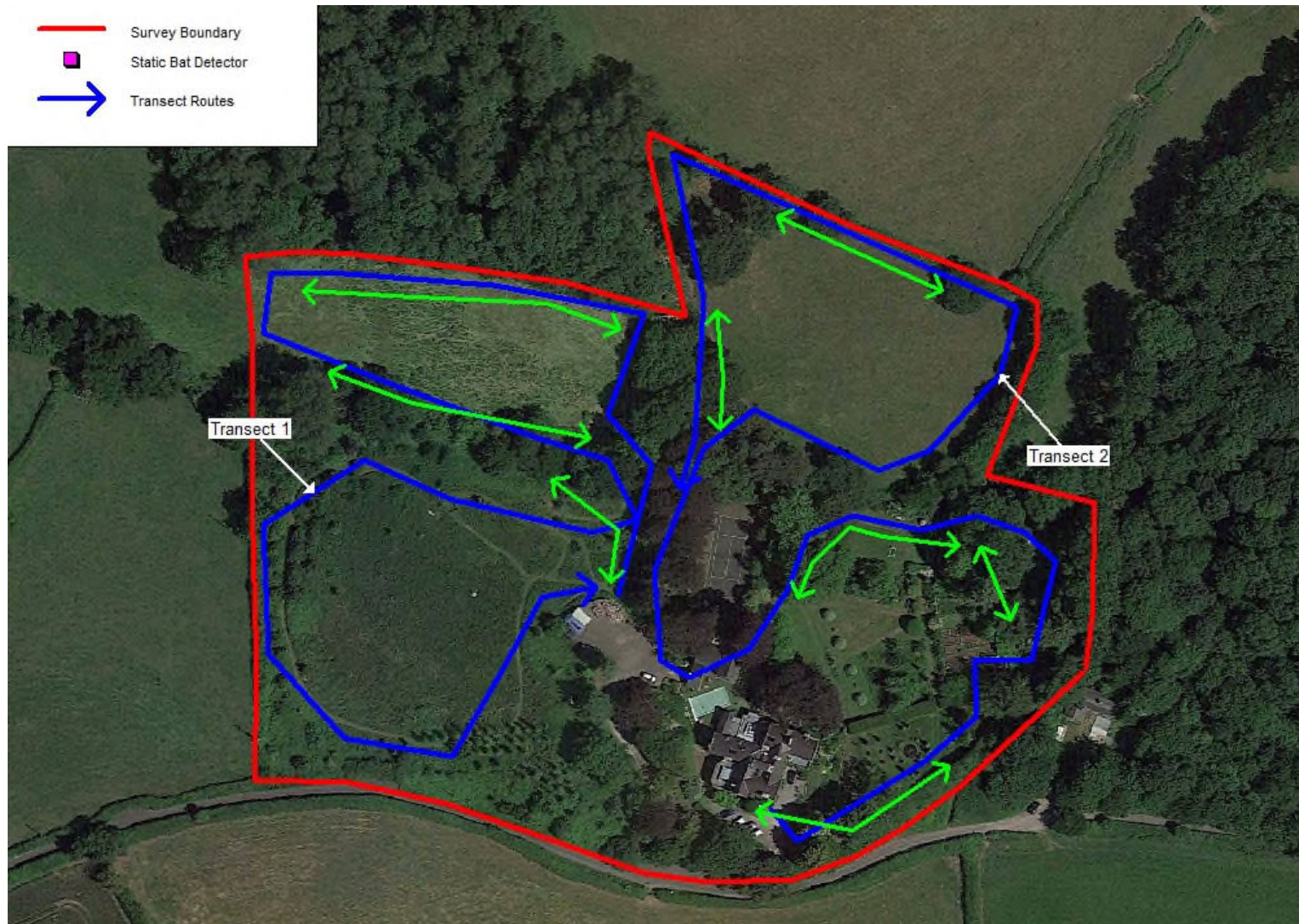


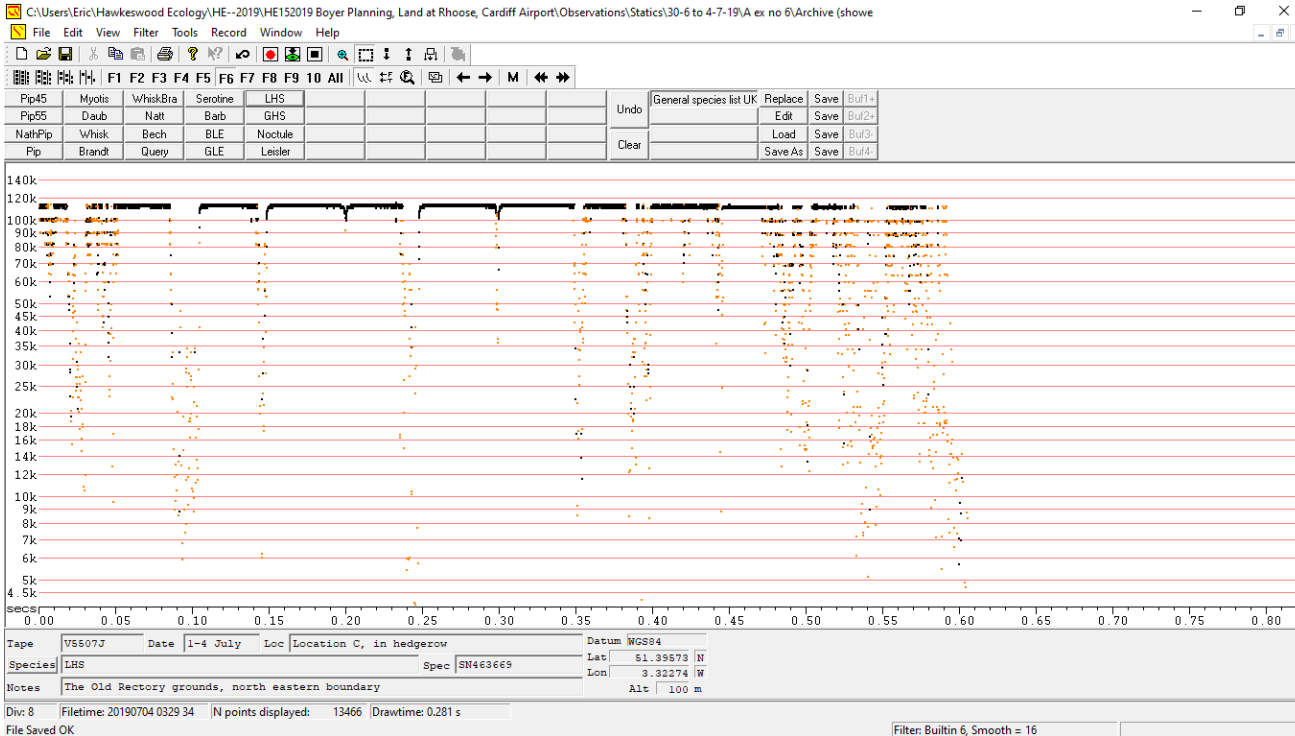
FIGURE 2
LOCATIONS OF PASSIVE DETECTORS

Figure 2: Locations of Passive Detectors

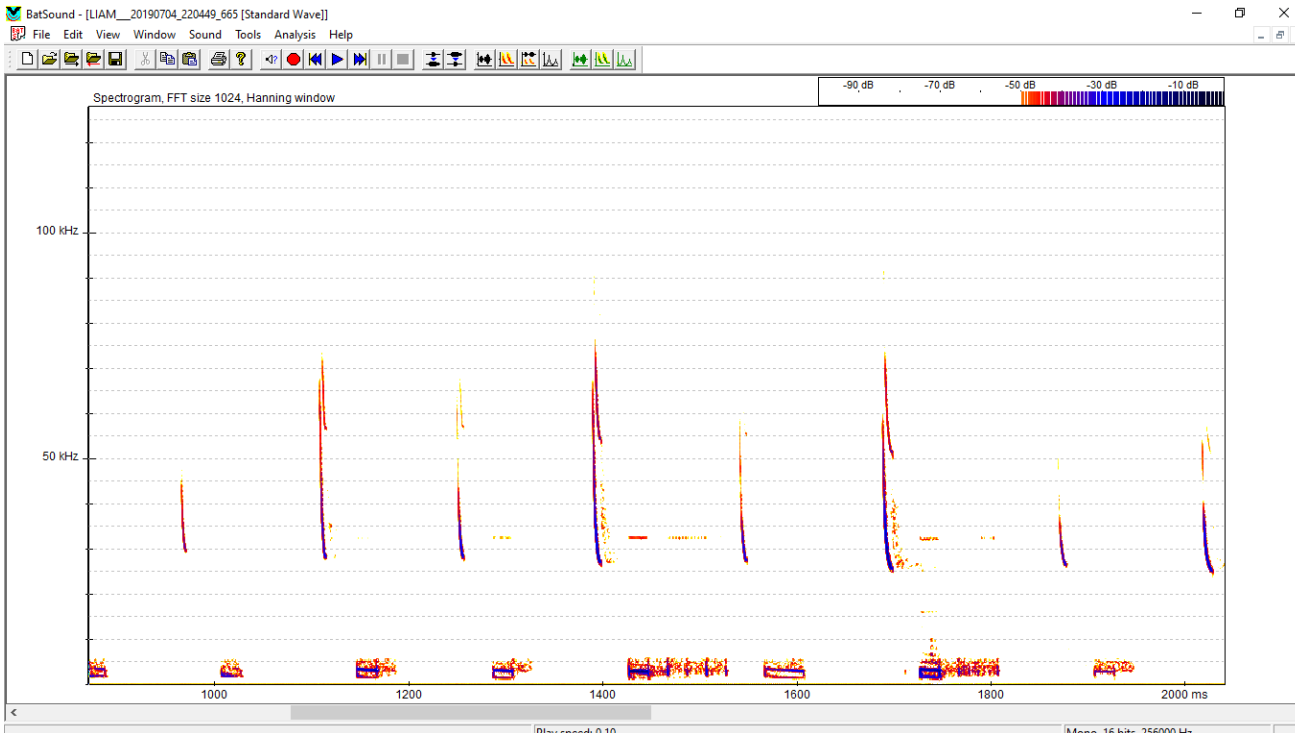


APPENDIX 1
EXAMPLE SONOGRAMS

Activity Surveys at The Old Rectory, Porthkerry.
Hawkeswood Ecology – October 2019 – Issue 3

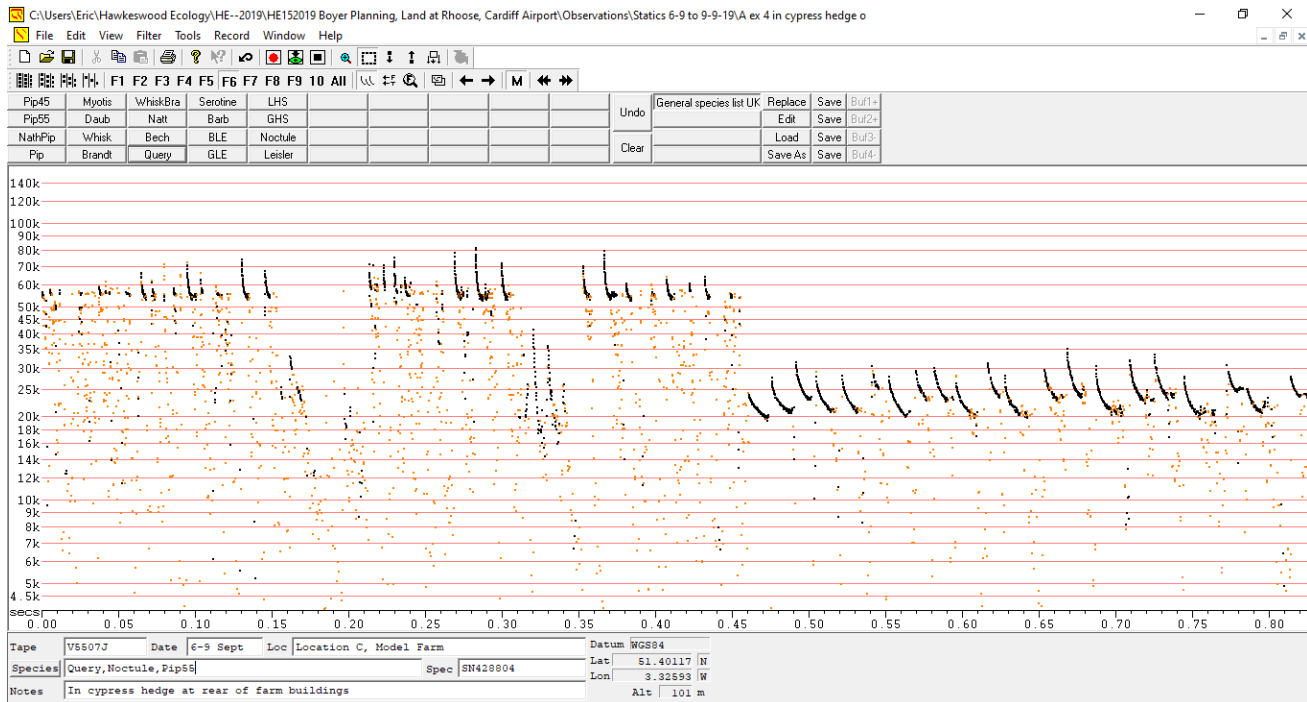


Lesser horseshoe, 03.49, 4/7/19

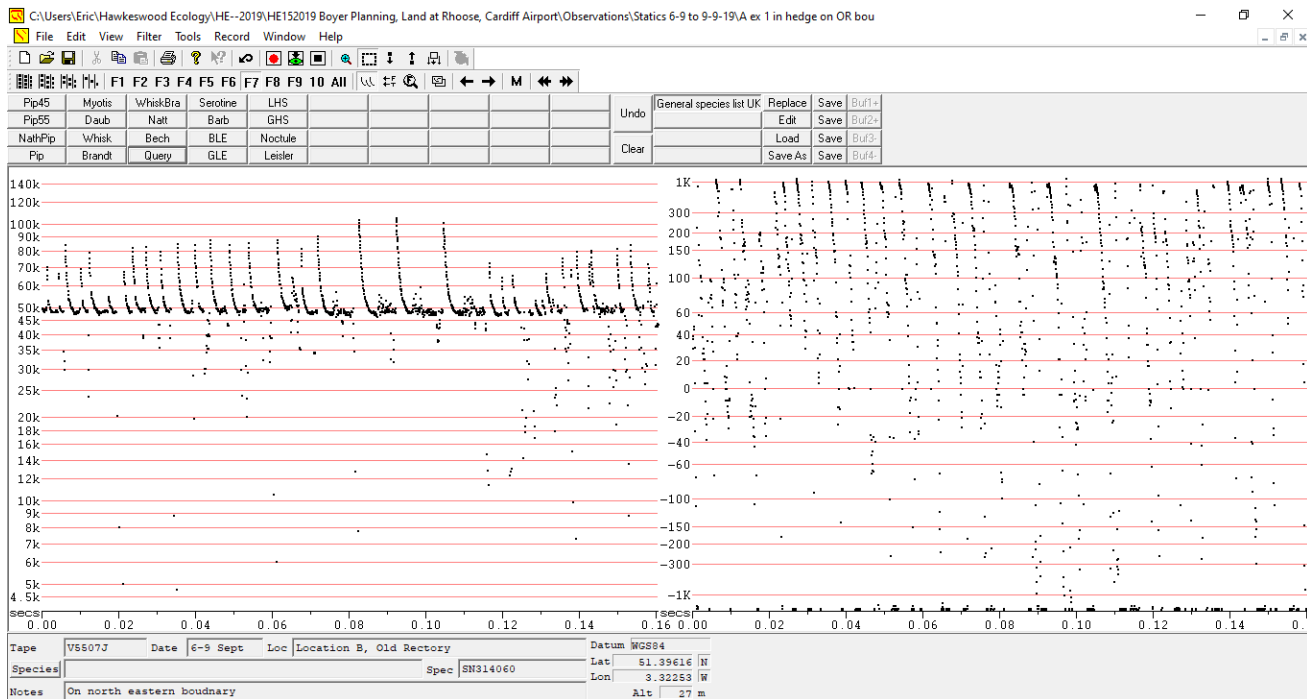


Serotine; 22.04, 4/7/19

Review of Preliminary Ecological Appraisal for Parc Busnes Porth Cymru and Initial Bat Activity Surveys at The Old Rectory, Porthkerry. Hawkeswood Ecology – October 2019 – Issue 3



Soprano pipistrelle, noctule and possible Leislars or noctule in clutter; 20.33, 7/9/19



Common pipistrelle, 03.27; 9/9/19

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24/10/2019

Our Ref: HE/15/2019
(Issue 2)

Dear Michael,

Response to RPS Species Surveys, Model Farm

Thank you for forwarding the species survey reports produced by RPS Ltd in support of the Model Farm Development proposals.

Our first comments would be that the Ecology Surveys report is thorough and well presented with much detail in the sections dealing with methodology and results as far as it goes. Although our survey work was much more time constrained and limited in Site access, we note that the bat survey results generally reflect our findings. They also confirm Leisler's bat, of which we had a possible pass, and report *Nathusius pipistrelle*, which we did not record.

We would make the following comments though.

General comments upon the survey:

We were surprised at the limited scope of the survey area. We were particularly concerned at the limited scope of bat activity survey, for both transect and static recorder surveys. Given the mobility of bats, the known foraging range of some identified from the Site species (the lesser horseshoe is known to travel in excess of 5 kilometres from the roost when foraging) would suggest that the wider area should have been looked at in more detail.

There appears little reason for this not to be the case as dormouse tubes were deployed across the whole ownership of the applicant rather than being limited to the proposed development area itself as was very nearly the case for bats.

Also, as known lesser horseshoe roosts are identified from either side of the application Site, the fact that lesser horseshoe bats were identified commuting through the Site should really flag up the probable importance of the Site as a commuting route. The proposal has the potential to create a massive barrier for foraging bats when added to the presence of the highly lit airport. The impact of this needs to be thoroughly assessed and does not appear to have been.

Indeed, the limited scope of the survey area is very much understating the potential importance of Model farm; there is a high probability of fragmentation of habitat which is not discussed in the document, and as we mention later, there is little in the manner of any predictive impact assessment made.

A further limitation with regard to bats is the emergence and re-entry observations at Model Farm. Here, the methodology does not properly describe how the buildings were observed, and there is no figure showing the location of the observers during the surveys. Given the very complex layout of the barns, it would be surprising if 5 observers could properly cover the complex satisfactorily. From Figure 4 it would appear that the buildings at the rear of the complex were ignored, we would suggest this is a significant limitation of the survey.

We also note that foraging activity around the barn complex consisted of common and soprano pipistrelle and noctule bats. Interestingly, Hawkeswood Ecology placed three static machines through the complex over the period 6th to the 9th September and recorded whiskered bat activity on all three machines with notable activity, including social calls, in the covered barn. A contemporary observation was carried out on Barn Complex A (Figure 4) at this time, 12th September. As bats were found in every building observed, we would suggest it is a limitation of the survey that the buildings to the rear of the Site, including the covered yard were apparently not observed at all.

We note the static detector survey results from the farm complex do record *Myotis* bats with other species such as Leisler's bat also present in this area (a species we had one possible pass of in this area). The difference in passes recorded by the machines at Locations 10 and 11 (Figure 1) in the farmyard area suggests a much higher level of bat activity around the buildings during the peak season than the observations surveys did. This may well suggest that further assessment of the buildings is necessary to properly identify the roost importance of the Site.

Section 2: Breeding Bird Survey Methodology.

Paragraphs 2.7.4 and 2.7.5 make reference to distances between displaying birds for them to be considered to be different pairs; we note that the distance for skylark is double that for other passerines. There is no explanation for this interpretation of the survey technique and it does seem rather arbitrary.

Given the acknowledged difficulty in surveying for skylark we would reasonably expect some justification for potentially ignoring animals. From personal experience we are very aware that in south Wales skylark concentrations can be very much higher than may be

expected. However, it is accepted that the farmland here is managed in such a way that skylark are less likely to be present in large numbers.

Section 5: Discussion and Evaluation of Impact.

Whilst this section serves as a discussion of the findings, it does not appear to quantify any potential impacts of the development. It does contain reference to what may happen, i.e. paragraph 5.1.17 refers to the unmitigated development having potential to sever commuting routes for bat species, but does not infer any predicted level of impact to this.

The same comments can be applied to Section 5.4, Breeding Birds which contains a discussion on the falling populations of various species present on Site but makes no attempt to assess what the actual predictive impact of the works upon those declining species might be.

Section 6: Recommendations and Mitigation.

Bats:

Paragraph 6.1.7 comments full details of species protection measures during demolition and destruction of roosts will be included in the subsequent licence application. We suggest this information should be provided as the LPA must consider the ‘three tests’ (noted in Para 6.1.1) and the LPA decision needs to be based upon whether the tests can be satisfied; there does not appear to be enough information in the documentation to support this.

Paragraphs 6.1.11 – 6.1.13 discuss the Core Sustenance Zone for bats. We would note that the Old Rectory supports roosting bats of two species; one of the roosts is a nursery roost see Hawkeswood Ecology’s report ‘*Review Of Preliminary Ecological Appraisal For Parc Busnes Porth Cymru and Initial Bat Activity Surveys – September 2019*’. This brings a known nursery roost to very near the boundaries of the development site.

Paragraphs 6.1.14 - 6.1.15 discuss retained habitat and comment on the need for a ‘dark buffer zone’ on woodland and hedgerows. The report comments that this can be achieved through the appropriate siting of lighting columns, use of environmentally sensitive lighting specifications and possibly hoods or cowls. Given that lighting can fundamentally affect bat behaviour, particularly in some of the species recorded, lesser horseshoe, *Myotis* species and brown long-eared bat, we would expect much greater detail, including a lighting plan (which may be available elsewhere in the application paperwork but is not referred to).

The potential for disruption of commuting routes is also known to possibly impact upon available foraging times for animals. Again, given the limited scale of the activity and static recorded surveys mentioned on page 1, we consider that, particularly with known lesser horseshoe roosts locally and lesser horseshoe bats recorded within the Site by RPS and Hawkeswood Ecology on the boundaries of The Old Rectory land holding, much further consideration needs to be given to the potential impacts of artificial light spill on the ability of these and other bat species to cope with the scale of the proposed development.

With reference to Section 5, no impact assessment is made in relation to the intrusion of light into a currently dark environment. Nor has the impact of light on the availability and abundance of prey species been assessed; it has been shown that insect abundance *outside of the lit area* can be depleted as insects move towards the lit area. Thus the impacts of artificial light spill are not limited to light itself, but its impacts on other species.

It is essential that these potential impacts are properly assessed for a development of this scale.

Dormouse

Paragraph 6.2.3 comments that survey found no dormice and thus there is no requirement for an EPS licence to be sought. It goes on to recommend a document be prepared to safely work across the Site with regard to the possible present of dormice. This seems a little contradictory and current advice would be that a derogation licence should be sought if there is a possibility of dormice being present on Site.

Although the correct methodology has been employed, there are concerns over the efficacy of the methodology which RPS would appear to share. In these cases a derogation licence should be sought prior to commencement of works.

Breeding Birds

Paragraph 6.3.2 comments that a '*breeding bird survey will be undertaken immediately prior to works undertaken in March – August.....The survey should be undertaken no more than 24 hours prior to works in the area.*'

Hawkeswood Ecology does not consider this an appropriate methodology to identify active bird nests. Dependent upon timing, a sitting bird may not be seen during any simple survey. Further clarification of the methodology to be employed is necessary to ensure that active nests are not destroyed. The very minimum should be a physical nest search ahead of any removal plus a watching brief during the works. Nests will be missed if only an observation survey is relied on.

Conclusions:

In conclusion, Hawkeswood Ecology would comment that whilst the methodologies employed cannot be faulted and that the results derived from the surveys are very appropriate as far as they go there are limiting factors to both the surveys and the subsequent report conclusions and recommendations.

In addition, there is no real predictive impacts assessment made for any of the species groups apart from those where presence is unlikely (i.e. otters) where a 'low impact' assessment is made. Given that all bat species are European Protected Species Annex IV (Animal and plant species of Community interest in need of strict protection) and lesser horseshoe are also Annex II species (Animal and plant species of Community interest whose conservation requires the designation of Special Areas of Conservation) a predictive impact assessment would be a minimum expectations for the EIA, the report merely refers to the '*absence of mitigation and suitable compensation*' having the

potential to '*sever commuting routes for bat species and reduce available habitat for foraging*'. There is no attempt to quantify the impact, nor is there with breeding birds.

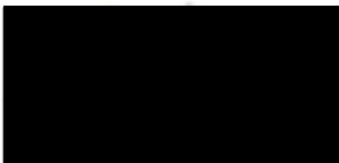
We were also surprised at the limited bat activity transects and limited locations of the Static detectors (Figure 1). Given the potential importance of the Site for commuting bats and a recent history of commuting lesser horseshoe already known (survey by Pryce Consultant Ecologists (2012)) it is surprising that the surveys did not encompass the whole of the land ownership. In particular, given the presence of an Annex II species, we would expect a far more detailed survey to be necessary to properly assess impacts on the lesser horseshoe bats.

Hawkeswood ecology consider that more detail is required to allow the LPA to properly assess the impacts of the scheme on both EPS and nationally protected species, and that currently there is not enough information presented to properly assess the impacts of this scheme on protected species.

Whilst it is accepted that there are drawings showing mitigation and new planting, there is a need for those drawings to properly address the species present and also to include a lighting plan showing levels of Lux impacting the proposed dark areas.

We hope you find this useful and helpful at this stage. If you have any further queries now please do not hesitate to contact me.

Yours Sincerely



Eric Hawkeswood
Principal Ecologist



**CONSULTATION RESPONSE:
COUNTRYSIDE AND ENVIRONMENT (ECOLOGY)**

To / I:	Operational Manager Development & Building Control	From / Oddi Wrth:	Ecology, Development Services Countryside and Economic Projects.
FAO	Ceiri Rowlands		Mr Colin Cheesman
Date / Dyddiad:	20 th May 2021	Tel / Ffôn:	(01446) 704855 07514 623147
Your Ref / Eich Cyf:	2019/00871/OUT	My Ref / Fy Cyf:	
Location	Land at Model Farm, Port Road, Rhoose		
Proposal	Outline application comprising demolition of existing buildings and erection of 44.79ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, biodiversity provision and ancillary works. All matters reserved aside from access.		

ECOLOGY RESPONSE	
<input type="checkbox"/> No comment <input checked="" type="checkbox"/> Object (holding objection) <input type="checkbox"/> Object and recommend refusal	<input type="checkbox"/> Notes for applicant <input checked="" type="checkbox"/> Request for further information <input type="checkbox"/> Recommend planning conditions <input type="checkbox"/> Approve

Summary

Current status: Outline application

Previous status:

Comments

These comments update those of the 11th January 2021.

Issues still unresolved

Bat mitigation

There appears to have been no response to the issue raised in my previous response, namely that if the mitigation is a series of bat boxes and features incorporated into new buildings then what are the timings for the erection of the new buildings to compensate in a timely fashion as mitigation. As pointed out such developments tend to have a phased and drawn out development period that may well not provide a

smooth and direct mitigation. The only other option is the erection of a standalone bat mitigation building.

Farmland Birds

To emphasise that the management of land indicated as arable on the plans that falls within the transfer portion will be managed primarily for farmland birds rather than agricultural production. This will be factored into any agreement between the applicant and the Council.

New or Arising Issues

Hedgerows

In the previous response details were asked of the lengths of hedgerow creation and restoration.

The SPG for Biodiversity and Development in the vale of Glamorgan states in the section under Mitigation (paragraph 10.5.6) that the ratio is 1: 1.5 or 50% above the amount/length of habitat lost.

For hedgerows the loss is stated at 1,420 metres whilst the new hedgerow planting is 1,240 metres with an additional 583 metres of hedgerow improvement.

Even with these figures they are short of the minimum target 2,130 metres required as a minimum in the SPG.

The applicant is asked to look at further options for hedgerow planting and/or restoration.

Conclusion

Because the issue of phasing of bat mitigation has yet to be resolved and that the proposed hedgerow creation and restoration falls below the minimum target set in the Biodiversity and Development SPG then a holding objection is maintained until further information is provided.

RELEVANT POLICIES FOR INFORMATION

MG21 - SITES OF IMPORTANCE FOR NATURE CONSERVATION, REGIONALLY IMPORTANT GEOLOGICAL AND GEOMORPHOLOGICAL SITES AND PRIORITY HABITATS AND SPECIES.

Development proposals likely to have an adverse impact on sites of importance for nature conservation or priority habitats and species will only be permitted where it can be demonstrated that:

1. The need for the development clearly outweighs the nature conservation value of the site;
2. Adverse impacts on nature conservation and geological features can be avoided;
3. Appropriate and proportionate mitigation and compensation measures can be provided; and
4. The development conserves and where possible enhances biodiversity

MD9 – PROMOTING BIODIVERSITY

New development proposals will be required to conserve and where appropriate enhance biodiversity interests unless it can be demonstrated that:

1. The need for the development clearly outweighs the biodiversity value of the site; and
2. The impacts of the development can be satisfactorily mitigated and acceptably managed through appropriate future management regimes.

ANNEX 1 – SUPPORTING INFORMATION (Legislation, planning policy and case law)

CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017

Known as the Conservation of Habitats and Species Regulations 2017 “Habitats Regulations” transpose the Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive) instrument transposes the into UK law. The Directive is the means by which the European Union meets its obligations under the [Bern Convention](#). The most vulnerable and rarest of species internationally (in the European context) are afforded protection under this legislation. The species listed on Schedule 2 of the Habitats Regulations are termed “European Protected Species” and are afforded the highest levels of protection and command strict licensing requirements for any works which may affect them. The species include all British bats, Otter, Dormouse and Great Crested Newt. They are fully protected against disturbance, killing, injury or taking. In addition any site regarded as their “breeding site or resting place” is also protected. It is generally regarded that the site is protected whether the animals are present or not.

The Habitats Regulations clearly outline the role of Planning Authorities in the implementation of the Habitats and Birds Directives; by stating [Section 10]

10.—(1)a competent authority must take such steps in the exercise of their functions as they consider appropriate to secure the objective in paragraph (3), so far as lies within their powers.

(3) The objective is the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom, including by means of the upkeep, management and creation of such habitat, as appropriate, having regard to the requirements of Article 2 of the new Wild Birds Directive (measures to maintain the population of bird species).

Habitats Regulations Licensing

Where works will affect a EPS, then the developer must seek a derogation (licence) prior to undertaking the works. The licence can only be issue once the “3 tests” are satisfied, that is:

- Test 1 – the purposes of “preserving public health or safety, or for reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.
- Test 2 – there must be “no satisfactory alternative”; and
- Test 3 – the derogation is “not detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.

Licences are issued by Natural Resources Wales (NRW), with NRW assessing Test 3, and the LPA assessing tests 1 & 2 (where proposals are not subject to planning, then NRW alone will assess all three tests). Where Planning regulations apply, the NRW will only issue a licence after determination of the planning application. Planners failing to do so will be in breach of the Habitats Regulations (see also Case Law, Morge Case and Woolley Ruling below).

WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

The WCA protects the UK's most vulnerable and rare species as outlined below.

Section 1 – breeding birds. The basic protection afforded to all birds is:

- Protection from killing, injury or taking of any wild bird
- Protection from taking, damaging or destroying the nest of any wild bird
- Protection from taking or destroying the egg of any wild bird

Further, some species, specifically those listed on Schedule 1 of the Act are afforded extra levels of protection to include:

- Protection from disturbance whilst it is nest building; or, is at or near a nest with eggs or young, or disturb the dependant young of such a bird.

There are exemptions from this basic protection for, for example: sale, control of pest species and sporting eg. game birds outside of the close season.

Section 9 (Schedule 5) - protected animals (other than birds) All animals listed on Schedule 5 are protected against killing, injury or taking. Any structure/place used for shelter or protection is protected against damage, destruction or obstructing access to. And it is an offence to disturb an animal whilst using such a structure / place. Some species are afforded "Part Protection" meaning that they enjoy only some of the protection outlined above – eg the animals may be protected, but not their structure used for shelter/protection (such as slow worm).

Section 13 (Schedule 8) – protected plants. Protected plants are afforded protection against: being picked, uprooted or destroyed. They are also protected against sale (or advertising for sale) – this is particularly relevant with respect to bluebells.

THE PROTECTION OF BADGERS ACT 1992

This protects badgers from killing, injury and taking; or attempting to kill, injure or take. Badger setts are also afforded protection and it is an offence to:

- Damage a badger sett or any part of it
- Destroy a badger sett
- Obstruct access to any entrance of a badger sett
- Disturb a badger when it is occupying a badger sett

Development which will destroy or disturb a badger sett (within 30m) is subject to licensing. The licensing body is NRW. However, badgers are considered a species protected under UK legislation (see PPW) and are therefore a material consideration during the planning decision.

ENVIRONMENT (WALES) ACT 2016

The Environment (Wales) Act became law in March 2016 and replaces the earlier Natural Environment and Rural Communities Act 2006. It puts in place legislation to enable Wales' resources to be managed in a more proactive, sustainable and joined up manner and to form part of the legislative framework necessary to tackle climate change. The Act supports the Welsh Governments wider remit under the Well-Being of Future Generations (Wales) Act 2015 so that Wales may benefit from a prosperous economy, a healthy and resilient environment and vibrant, cohesive communities.

Section 6 of the Environment Act requires all that public authorities “***must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions***”. The intention of this duty is to ensure biodiversity becomes an integral part of decision making in public authorities.

Welsh Government, with consultation with NRW must prepare and publish a list of habitats and species which, in their opinion, are of principal importance for maintaining and enhancing biodiversity in Wales (“Section 7 list”). Public bodies must take all reasonable steps to maintain and enhance the living organisms and types of habitat on this list. At the current time, this list directly replaces the list created under the now defunct Section 42 of the Natural Environment of Rural Communities (NERC) Act 2006 (Habitats and Species of Principal Importance for Conservation in Wales).

PLANNING POLICY WALES SEPTEMBER 2009 (TECHNICAL ADVICE NOTE 5: NATURE CONSERVATION AND PLANNING)

Section 6.2.1 – the presence of a protected species is a material consideration when a local planning authority is considering a development proposal, that, if carried out, would be likely to result in disturbance or harm to the species or its habitat.

Section 6.2.2 – It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted.

Section 6.3.5 – any step in the planning or implementation of a development likely to affect a European Protected Species could be subject to a licence to permit or the survey or implement the proposal are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions.

PLANNING POLICY WALES (EDITION 10, DECEMBER 2018)

Planning Policy Wales, Section 6.4 places a duty on local authorities to ensure that biodiversity and resilience are fully considered by Local authorities.

Particular reference is made to The Section 6 Duty (Environment Act) to ensure that planning authorities demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions.

Protected Species under European or UK legislation, or under section 7 of the Environment Act are a material consideration when a planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or

harm to the species or its habitat and to ensure that the range and population of the species is sustained. (Section 6.4.22)

Paragraph 6.4.23 outlines the process whereby European Protected Species are considered in Planning.

VALE OF GLAMORGAN COUNCIL - SUPPLEMENTARY PLANNING GUIDANCE

Supplementary Planning Guidance – Biodiversity and Development

WOOLLEY RULING

This case confirmed that local planning authorities must apply the same three tests as Natural England (in Wales, CCW) when deciding whether to grant planning permission when one or more of the European protected species offences under the Habitats Regulations may be committed.

This judgment clarifies a legal duty which was already in existence although many planning authorities were not applying it correctly. His Honour Judge Waksman QC, in the High Court in June 2010, handed down this ruling in the case of R (on the application of Simon Woolley) v Cheshire East Borough Council concerning a development with a bat roost. **This judgment makes it clear that the local planning authority must apply the “3 tests” when determining a planning application.**

MORGE CASE (SUPREME COURT CASE 19 JANUARY 2011)

The case gives clarification to deliberate disturbance and to the interpretation of “damage or destruction of a breeding site or resting place”. It also gives guidance on how LPA should discharge their duties with respect to the Habitats Directive.

CORNWALL RULING

Judgement that a planning authority had acted unlawfully by granting planning permission without sufficient information on flora and fauna.

Sometimes planning authorities grant planning permission before some or all ecological surveys have been carried out, making ecological surveys a planning condition, or Section 106 Agreement, under the Town and Country Planning Act 1990.

For development that requires an Environmental Impact Assessment this practice was subject to judicial review proceedings in the High Court and it was determined that the planning authority had acted unlawfully by granting planning permission without sufficient information on flora and fauna (known as the Cornwall Ruling because the planning authority in this case was Cornwall County Council). Requiring surveys as a condition of the Section 106 Agreement was not sufficient, as this would exclude the consultation process that is required under the Town and Country Planning (EIA) Regulations (1999).

Date: 17th February 2022
Our Ref: AM/SB/19.8060

Third Floor, Park House
 Greyfriars Road
 Cardiff
 CF10 3AF

Mr Ceiri Rowlands
 Vale of Glamorgan Council
 Development Control
 Dock Office
 Barry
 CF63 4RT

T 029 2073 6747
 F 029 2073 6631

Dear Mr Rowlands,

Proposed Parc Busnes Porth Cymru Business Park (Ref: 2019/00871/OUT)
Land at Model Farm, Port Road, Rhoose, CF62 3BB
Additional Representations on behalf of The Stevens Family

Further to previous representations submitted on behalf of Mr and Mrs Stevens of The Old Rectory submitted between 2019 and 2021, and prior to the Quashed Decision Order in October 2021, please find comments prepared by Boyer in response to the outline application submitted on behalf of Legal & General in relation to the proposed Parc Business Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhoose (Ref: 2019/00871/OUT).

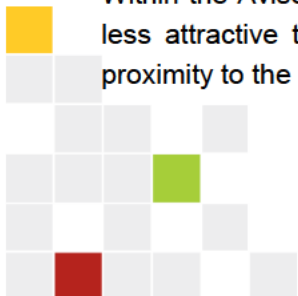
These representations, outlined below, are specifically made in relation to the proposed hybrid application and reiterate those made prior to the determination at the July 2021 Planning Committee, and the issuing of the Decision Notice (subsequently quashed). They are submitted in the context of the current re-consultation regarding the publication of the viability information and provide comment below.

Viability

These comments relate to the recently published RPS & Sutton Viability as well as the Avison Young independent review. It is clear from both reports that the proposed development is unviable without significant reductions in the required financial contributions.

The Council's LDP and the Planning Obligations SPG, make it clear that development viability is a material consideration in determining planning applications, but the significance of the unviable nature has only now been evidenced. Furthermore, the level of reductions within the standard contributions normally sought is both extensive and excessive (in excess of £3,700,000 for sustainable transport alone as detailed below).

The viability assessments highlight not only that the development is unviable, but then also question how attractive it would be to any potential market, which has implications on its future deliverability. Within the Avison Young Report it is noted that the proposed development is likely to be materially less attractive to tenants than numerous existing sites in SE Wales, most of which enjoy close proximity to the M4, which is a key consideration.



Whilst we do not necessarily seek to question the unviable nature of the development, it is noted that the Avison Young report assumes an annual take-up of 50,000 sq ft GIA of manufacturing/warehouse space per annum and a take-up of 8,500 sq ft NIA of office space per annum. However, it is stated that although the annual take-up across other more attractive major Business Parks typically range from 15,000 – 50,000 sq ft per annum, they have applied an annual take-up rate at the top end of this range, which was considered to be optimistic. The conclusion, in Avison Young's opinion, was that such take up rates are highly questionable and if not achieved, will again mean that the scheme is unviable.

Moreover, the conclusion of the Avison Young report is significant in that they show a loss of £10,400,000 (assuming no interest charges) and £34,500,000 (assuming interest is charged at 5%), which demonstrates that the scheme is not viable, and that without Government/public sector intervention by way of gap funding it is unlikely ever to be delivered. It will not be able to support the level of s106 contributions required for off-site road improvements, improvements to sustainable transport, and improvements to Porthkerry Park. The implications from the unviable nature of the development on the s106 contributions are outlined in the previous July 2021 Committee Report, and clearly illustrate a woeful shortfall in the provision to be provided.

Consequently the demand, and indeed the appetite to construct such a development is highly questionable. Serious concern is raised as to why Legal & General are progressing with such a loss making scheme and as to why the Authority is allowing such a significant loss of contributions. Serious questions at Planning Committee need to be raised as to why this wholly unviable scheme is continuing or indeed needed and also to question what is the ultimate end goal for Legal & General for the site.

Drainage

It is noted that Welsh Water (DCWW) initially objected to the proposals for the following reasons:

- Site layout should take account of the location of the sewer;
- It is unlikely that sufficient capacity exists to accommodate foul flows generated by the development; and
- The proposed development is within an area where there are water supply problems, for which no improvements are currently planned.

We note that further comments have been received from DCWW as part of the application consultation process (29th August 2019), which appears to suggest a potential planning condition for the submission of an Hydraulic Modelling Assessment (HMA) prior to the submission of any reserved matters applications. This is contrary to DCWW's preference for such assessments to be provided up front as part of an application submission, setting out that development should not be supported where there are no known solutions.

Notwithstanding the issues raised above concerning capacity, we hereby reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership of our client, including the garden of their private residence. Moreover, the route of the proposed foul sewer also crosses through the SINC's and areas of Ancient Woodland previously identified in a number of places. This would clearly have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species. Although this has been highlighted on numerous occasions, no revisions have been made to take account of this.

The farcical nature of the proposed foul drainage route is also highlighted in the attached DCWW correspondence to our clients (dated Nov 2021) which states that *'Our initial assessment of the route identifies a host of physical and ecological constraints which would render the route unviable, therefore not able to be adopted by us'*.

As detailed in the July 2021 Committee Report, DCWW and Natural Resource Wales both maintain that the local drainage infrastructure is considered inadequate to accommodate the proposed capacity of this development.

Noting the lack of plans to improve capacity and risk of overwhelming the public sewerage, DCWW concerns remain where it is *'unlikely that sufficient capacity exists to accommodate the development without causing detriment to the existing services'* that includes the Porthkerry Sewerage Pumping Station adjacent to The Old Rectory. Comments raised by DCWW further highlight the failure to identify a suitable point of communication for the proposed development site to be served by adequate water supply.

It is acknowledged that condition 8c addresses the impact of proposed excavation works for the drainage and SuDS proposal on existing trees, however the works continue to raise concern regarding the proximity of the proposed sewer and risk of direct damage to the Root Protection Area of several old trees located within the curtilage of The Old Rectory. Moreover, additional surface water drainage carried by the existing streams that may arise from a reduction of permeability of land threaten several of the old oaks positioned directly on the banks of the streams.

As detailed within Condition 9, a foul water drainage scheme is to be agreed prior to approval of reserved matters or commencement of development for that site and/or other identified. Also Condition 10 requires that no development shall take place on any phase of development, until a point of connection to the public sewerage system for that phase and/or other identified part, has been identified by a hydraulic modelling assessment. There remains significant ambiguity on this point and no additional works have been undertaken.

Condition 12 relates to the proposed SuDS for surface water disposal, where the proposed designated SuDS attenuation areas surrounds the boundary of our client's land reservations remain on the impact this may have on private land of The Old Rectory.

The Council is reminded that where plans seek to go through and surround our client's land we must be made aware and kept informed in full detail as the issue is dealt with by reserved matters.

Transport

Numerous representations have previously been made relating to the proposed development's impact on transport. Additional concern is raised where the transport assessment is *'notably reliant upon infrastructure improvement in the locality, in order to promote travel by means other than private car'*, yet it is noted that due to the recently published development viability, officers do not recommend seeking a financial contribution toward sustainable transport, which would equate to in excess of £3,700,000.

Rather it is considered that a transfer of a 10m strip of land to the Council across the site frontage with Port Road via the s106 Legal Agreement would be acceptable to compensate for the fact that the development would fail to deliver any sustainable links itself. Moreover, the Council are still then required to secure subsequent funding for construction, which questions if this is an acceptable

alternative. Further consideration is needed to fully explain how the land transfer would equate anywhere near to the required financial contribution the development generates and if this is sufficient to adhere to the Sustainable Transport requirements set out in Future Wales, Llwybr Newydd and Planning Policy Wales.

Where the site has poor existing public transport and active travel connectivity, if approved, the development must ensure it does not result in unacceptable traffic impacts within the locality and wider transport network.

Ecology

Reservations remain regarding the impacts of habitat loss and hedgerow loss from the development, on the number of rare species that have been recorded on site. Although the July 2021 Committee Report states such species are principally woodland species and unlikely to be adversely affected by the development, they still hold significant ecological value to the surrounding land and Porthkerry Country Park. The ecological information provided on behalf of Mr and Mrs Stevens previously noted that in their review it was highly suggestive of a wider presence of protected biodiversity (bats, badgers, barn owls and more) within both the area immediately adjacent to the proposed development, as well as the application site itself. Consequently, it is considered that further information and detail was required in order to make an informed conclusion regarding the likely impacts of the proposed development upon protected species and wider ecological assets. This information has not been collected/made public by the applicants.

We note Condition 6 and 7 which refer to an updated Precautionary Dormouse Strategy and Biodiversity Management Strategy, however suggest that these must carefully consider the impact of the proposal on the existing habitat and extended area to ensure no harm to the abundant adjoining wildlife and ecology.

Furthermore, we require confirmation that the original ecological information provided is within the standard 2 year timeframe to allow a further determination of the application.

Summary

In summary, we continue to have strong reservations regarding the proposals, many of which have been previously raised and continue to be unaddressed by the applicant, which it is felt must be resolved before the proposals can be appropriately determined. The route of a sewer across our clients land must be addressed urgently and we must be kept informed as the issue is addressed.

Overall, the proposed development continues to raise concerns regarding drainage, transport, and ecology. However, with the publication of both the RPS & Sutton and the independent Avison Young report, it is clearly evident that this scheme is wholly unviable, and has considerable impacts upon the required s106 contributions levels to be provided. There are serious questions as to how such an unviable scheme can even be considered.

If consented by the Authority then it is important to reiterate that the farm will be closed, the land likely to be left abandoned, but our clients ask to what end? Unless Legal & General are possibly planning to apply in the future for a different, more remunerative opportunity?

Yours sincerely,

A black rectangular box redacting the signature of Simon Barry.

Simon Barry
Associate Director

Tel: 

Email: 

Mr & Mrs Stevens
The Old Rectory
Porthkerry
Rhoose
CF62 3BZ

Date: 08/11/2021

Your reference: N/A

Our reference: PLA0044209

Sent by e-mail only

Dear Mr & Mrs Stevens,

I refer to proposals for development at Model Farm in Rhoose. I am aware that whilst Planning Permission was awarded by the Vale of Glamorgan Council, this decision has now been quashed and a further application may be submitted in due course by the Applicant.

Dŵr Cymru's Planning Position

You will be aware that the details of the development (building usage and therefore water or waste demand) are indicative/unknown at this stage, and therefore in order to protect our systems and the service we provide to customers in the area (as well as protecting the environment), we recommended appropriate planning conditions to the Local Planning Authority, to ensure that these matters are controlled via the planning process. The initial decision granted by the Vale of Glamorgan Council included these conditions, which are summarised as follows. For sewerage matters;

- Condition 9 required the submission of a drainage strategy showing how the development site would be drained (i.e., the arrangements within the site).
- Condition 10 ensured that, prior to the commencement of development, a hydraulic modelling assessment of the public sewerage system in the area would need to be undertaken to assess the capacity of the system to accommodate the flows generated from the site. The assessment would also identify a suitable point of connection on the existing system. Should any reinforcement/upgrade of the system be required, any such works would need to be funded by the Applicant and completed in advance of the communication of flows to the network.

For water supply, condition 11 requires any reinforcement works of the local system (identified by a hydraulic modelling assessment) to be completed, in the same way as our position on sewerage matters.

At this stage I can advise that the assessment of either the sewerage or water supply systems in the area have not been undertaken, and we await instruction from the Applicant in this regard. I trust the above provides you with the reassurance that the local system (and environment) will be protected from the impact of the development and adequately controlled via the planning process.

Proposed Sewer Connection Route

Turning to the indicative route of the new sewer provided by the Applicant as part of the planning submission, this is a proposal we have not agreed to and in any event would be superseded by the undertaking (and outcomes of) the Hydraulic Modelling Assessment.

Any foul sewer connection to the existing public sewer network, must comply with Mandatory Sewer Design Standards set out by Welsh Ministers, the sewer must also be included within a Sewer Adoption Agreement before any works commence. We therefore have a vested interest in confirming that any new sewers within our operational area, not only comply with the necessary standards and are adopted, they also need to be accessible and free of any constraints which would limit our ability to effectively maintain the sewer once it is adopted. In this example, I can only surmise that the theoretical route of the sewer, was prepared as part of a limited “desktop” exercise. Our initial assessment of the route identifies a host of physical and ecological constraints which would render the route unviable, therefore not able to be adopted by us.

At this juncture, and in the absence of a new planning application or further detail from the Application in respect of a drainage strategy, we cannot comment any further in respect of the final sewerage arrangements of the site. That said, I do hope that the above provides you with the reassurance that we are carefully managing the site (as with any other development) to ensure that it doesn't compromise our service to customers, the protection of the environment or our ability to maintain the system in line with the requirements set out in the Water Industry Act 1991.

I do hope the above clarifies our position and reinforced our communications to date on this matter. However, should you require any further information please do not hesitate to contact me.

Yours sincerely,



Owain George
Head of Development Planning
Dwr Cymru Welsh Water

CONSULTATION RESPONSE:
COUNTRYSIDE AND ENVIRONMENT (ECOLOGY)

To / I:	Operational Manager Development & Building Control	From / Oddi Wrth:	Ecology, Development Services Countryside and Economic Projects.
FAO	Ceiri Rowlands		Mr Colin Cheesman
Date / Dyddiad:	14 th June 2021	Tel / Ffôn:	(01446) 704855 07514 623147
Your Ref / Eich Cyf:	2019/00871/OUT	My Ref / Fy Cyf:	
Location	Land at Model Farm, Port Road, Rhoose		
Proposal	Outline application comprising demolition of existing buildings and erection of 44.79ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, biodiversity provision and ancillary works. All matters reserved aside from access.		

ECOLOGY RESPONSE	
<input type="checkbox"/> No comment <input type="checkbox"/> Object (holding objection) <input type="checkbox"/> Object and recommend refusal	<input checked="" type="checkbox"/> Notes for applicant <input type="checkbox"/> Request for further information <input type="checkbox"/> Recommend planning conditions <input type="checkbox"/> Approve

Summary

Current status: Outline Planning Application submitted

Previous status:

Comments

Supplementary comments

Preliminary Ecological Appraisal

The applicant employed RPS Group to undertake a Preliminary Ecological Assessment (PEA) dated the 18th June 2018.

A Proposed Additional Mitigation and Wildlife Enhancement Plan was submitted in November 2020.

An addendum containing a Proposed Wildlife and Mitigation Strategy on the 15th December 2010

A Hedgerow, Scrub and Woodland Management Plan was submitted in June 2021.

The original PEA conformed to the standard set out by the Chartered Institute for Ecology and Environmental Management, 'Guidelines for Preliminary Ecological Appraisal' Second edition, December 2017.

Both the previous County Ecologist and myself do/did not regard the PEA as deficient though both of us have raised issues that have resulted in both further surveys and amendments to the plans.

This will continue to be an iterative process as this is an outline application and further details will be worked through as the development moves forward and the concomitant biodiversity mitigations and enhancements.

Rare species

A number of rare species have been recorded on site but none of these has any protection in law through either the Wildlife and Countryside Act 1981 (as amended) nor in the Section 6 species list of the Environment (Wales) Act 2016. In reviewing the application, it has been our view that such species are unlikely to be adversely affected by the development.

Platycis minutus

A beetle found in and around rotting wood, mainly beech, birch and oak, in woodland and parkland settings. 46 records in Wales with 30 since 2000 in 20 hectads. (Aderyn)

Platyrhinus resinosus – Resin Weevil

Nationally scarce but increasing in range and abundance recently. Associated with the fungus *Daldinia concentrica* found growing on Ash and some other broadleaved trees. 21 records in Wales with 18 since 2000 in 18 hectads (Aderyn)

Pluteus aurantiorugosus – Flame Shield mushroom

A wood rotting fungus that occurs on stumps and buried logs of broadleaved trees principally elm and ash. 13 records in Wales in 9 hectads, all since 2000. (Aderyn)

Perenniporia ochroleuca

A small polypore (bract) fungus that is normally found on blackthorn, hawthorn and oak. 7 records in Wales in three tetrads all since 2006 (Aderyn). The Kew Lost and Found Project (2014 – 2020) added 96 records in the UK including 6 in Wales at 5 separate locations.

All of these species are principally woodland species and the existing woodlands are not affected by the development close to Port Road but within the area to be managed for nature conservation by Porthkerry County Park.

Hedgerows

The applicants have now provided a table listing the losses of hedgerow at 2.04 km. and a length of 3.01 km of new hedgerows and 0.3km of hedgerows to be restored through additional planting. Therefore, the target set out in the Biodiversity and Development SPG has been met. The applicants also propose to plant 1.5 hectare of hazel dominated scrub, 1 hectare of scrub and 2.5 hectares of new broadleaved woodland planting.

Conclusion

THE PEA and supporting documents are to the standards set out by CIEEM.

Rare Species – none have statutory protection, and most are confined to the woodlands which are unaffected by the development.

The applicant has met the requirements in the Biodiversity and Development SPG for the compensation by length of lost hedgerows.

RELEVANT POLICIES FOR INFORMATION

MG21 - SITES OF IMPORTANCE FOR NATURE CONSERVATION, REGIONALLY IMPORTANT GEOLOGICAL AND GEOMORPHOLOGICAL SITES AND PRIORITY HABITATS AND SPECIES.

Development proposals likely to have an adverse impact on sites of importance for nature conservation or priority habitats and species will only be permitted where it can be demonstrated that:

1. The need for the development clearly outweighs the nature conservation value of the site;
2. Adverse impacts on nature conservation and geological features can be avoided;
3. Appropriate and proportionate mitigation and compensation measures can be provided; and
4. The development conserves and where possible enhances biodiversity

MD9 – PROMOTING BIODIVERSITY

New development proposals will be required to conserve and where appropriate enhance biodiversity interests unless it can be demonstrated that:

1. The need for the development clearly outweighs the biodiversity value of the site; and
2. The impacts of the development can be satisfactorily mitigated and acceptably managed through appropriate future management regimes.

ANNEX 1 – SUPPORTING INFORMATION (Legislation, planning policy and case law)

CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017

Known as the Conservation of Habitats and Species Regulations 2017 “Habitats Regulations” transpose the Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive) instrument transposes the into UK law. The Directive is the means by which the European Union meets its obligations under the [Bern Convention](#). The most vulnerable and rarest of species internationally (in the European context) are afforded protection under this legislation. The species listed on Schedule 2 of the Habitats Regulations are termed “European Protected Species” and are afforded the highest levels of protection and command strict licensing requirements for any works which may affect them. The species include all British bats, Otter, Dormouse and Great Crested Newt. They are fully protected against disturbance, killing, injury or taking. In addition any site regarded as their “breeding site or resting place” is also protected. It is generally regarded that the site is protected whether the animals are present or not.

The Habitats Regulations clearly outline the role of Planning Authorities in the implementation of the Habitats and Birds Directives; by stating [Section 10]

10.—(1)a competent authority must take such steps in the exercise of their functions as they consider appropriate to secure the objective in paragraph (3), so far as lies within their powers.

(3) The objective is the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom, including by means of the upkeep, management and creation of such habitat, as appropriate, having regard to the requirements of Article 2 of the new Wild Birds Directive (measures to maintain the population of bird species).

Habitats Regulations Licensing

Where works will affect a EPS, then the developer must seek a derogation (licence) prior to undertaking the works. The licence can only be issue once the “3 tests” are satisfied, that is:

- Test 1 – the purposes of “preserving public health or safety, or for reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.
- Test 2 – there must be “no satisfactory alternative”; and
- Test 3 – the derogation is “not detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.

Licences are issued by Natural Resources Wales (NRW), with NRW assessing Test 3, and the LPA assessing tests 1 & 2 (where proposals are not subject to planning, then NRW alone will assess all three tests). Where Planning regulations apply, the NRW will only issue a licence after determination of the planning application. Planners failing to do so will be in breach of the Habitats Regulations (see also Case Law, Morge Case and Woolley Ruling below).

WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

The WCA protects the UK's most vulnerable and rare species as outlined below.

Section 1 – breeding birds. The basic protection afforded to all birds is:

- Protection from killing, injury or taking of any wild bird
- Protection from taking, damaging or destroying the nest of any wild bird
- Protection from taking or destroying the egg of any wild bird

Further, some species, specifically those listed on Schedule 1 of the Act are afforded extra levels of protection to include:

- Protection from disturbance whilst it is nest building; or, is at or near a nest with eggs or young, or disturb the dependant young of such a bird.

There are exemptions from this basic protection for, for example: sale, control of pest species and sporting eg. game birds outside of the close season.

Section 9 (Schedule 5) - protected animals (other than birds) All animals listed on Schedule 5 are protected against killing, injury or taking. Any structure/place used for shelter or protection is protected against damage, destruction or obstructing access to. And it is an offence to disturb an animal whilst using such a structure / place. Some species are afforded "Part Protection" meaning that they enjoy only some of the protection outlined above – eg the animals may be protected, but not their structure used for shelter/protection (such as slow worm).

Section 13 (Schedule 8) – protected plants. Protected plants are afforded protection against: being picked, uprooted or destroyed. They are also protected against sale (or advertising for sale) – this is particularly relevant with respect to bluebells.

THE PROTECTION OF BADGERS ACT 1992

This protects badgers from killing, injury and taking; or attempting to kill, injure or take. Badger setts are also afforded protection and it is an offence to:

- Damage a badger sett or any part of it
- Destroy a badger sett
- Obstruct access to any entrance of a badger sett
- Disturb a badger when it is occupying a badger sett

Development which will destroy or disturb a badger sett (within 30m) is subject to licensing. The licensing body is NRW. However, badgers are considered a species protected under UK legislation (see PPW) and are therefore a material consideration during the planning decision.

ENVIRONMENT (WALES) ACT 2016

The Environment (Wales) Act became law in March 2016 and replaces the earlier Natural Environment and Rural Communities Act 2006. It puts in place legislation to enable Wales' resources to be managed in a more proactive, sustainable and joined up manner and to form part of the legislative framework necessary to tackle climate change. The Act supports the Welsh Governments wider remit under the Well-Being of Future Generations (Wales) Act 2015 so that Wales may benefit from a prosperous economy, a healthy and resilient environment and vibrant, cohesive communities.

Section 6 of the Environment Act requires all that public authorities “***must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions***”. The intention of this duty is to ensure biodiversity becomes an integral part of decision making in public authorities.

Welsh Government, with consultation with NRW must prepare and publish a list of habitats and species which, in their opinion, are of principal importance for maintaining and enhancing biodiversity in Wales (“Section 7 list”). Public bodies must take all reasonable steps to maintain and enhance the living organisms and types of habitat on this list. At the current time, this list directly replaces the list created under the now defunct Section 42 of the Natural Environment of Rural Communities (NERC) Act 2006 (Habitats and Species of Principal Importance for Conservation in Wales).

PLANNING POLICY WALES SEPTEMBER 2009 (TECHNICAL ADVICE NOTE 5: NATURE CONSERVATION AND PLANNING)

Section 6.2.1 – the presence of a protected species is a material consideration when a local planning authority is considering a development proposal, that, if carried out, would be likely to result in disturbance or harm to the species or its habitat.

Section 6.2.2 – It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted.

Section 6.3.5 – any step in the planning or implementation of a development likely to affect a European Protected Species could be subject to a licence to permit or the survey or implement the proposal are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions.

PLANNING POLICY WALES (EDITION 10, DECEMBER 2018)

Planning Policy Wales, Section 6.4 places a duty on local authorities to ensure that biodiversity and resilience are fully considered by Local authorities.

Particular reference is made to The Section 6 Duty (Environment Act) to ensure that planning authorities demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions.

Protected Species under European or UK legislation, or under section 7 of the Environment Act are a material consideration when a planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or

harm to the species or its habitat and to ensure that the range and population of the species is sustained. (Section 6.4.22)

Paragraph 6.4.23 outlines the process whereby European Protected Species are considered in Planning.

VALE OF GLAMORGAN COUNCIL - SUPPLEMENTARY PLANNING GUIDANCE

Supplementary Planning Guidance – Biodiversity and Development

WOOLLEY RULING

This case confirmed that local planning authorities must apply the same three tests as Natural England (in Wales, CCW) when deciding whether to grant planning permission when one or more of the European protected species offences under the Habitats Regulations may be committed.

This judgment clarifies a legal duty which was already in existence although many planning authorities were not applying it correctly. His Honour Judge Waksman QC, in the High Court in June 2010, handed down this ruling in the case of R (on the application of Simon Woolley) v Cheshire East Borough Council concerning a development with a bat roost. **This judgment makes it clear that the local planning authority must apply the “3 tests” when determining a planning application.**

MORGE CASE (SUPREME COURT CASE 19 JANUARY 2011)

The case gives clarification to deliberate disturbance and to the interpretation of “damage or destruction of a breeding site or resting place”. It also gives guidance on how LPA should discharge their duties with respect to the Habitats Directive.

CORNWALL RULING

Judgement that a planning authority had acted unlawfully by granting planning permission without sufficient information on flora and fauna.

Sometimes planning authorities grant planning permission before some or all ecological surveys have been carried out, making ecological surveys a planning condition, or Section 106 Agreement, under the Town and Country Planning Act 1990.

For development that requires an Environmental Impact Assessment this practice was subject to judicial review proceedings in the High Court and it was determined that the planning authority had acted unlawfully by granting planning permission without sufficient information on flora and fauna (known as the Cornwall Ruling because the planning authority in this case was Cornwall County Council). Requiring surveys as a condition of the Section 106 Agreement was not sufficient, as this would exclude the consultation process that is required under the Town and Country Planning (EIA) Regulations (1999).



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The Woodland Trust
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Vale of Glamorgan Council
Civic Offices
Holton Road
Barry
CF63 4RU

26th May 2022

Dear Mr Rowlands,

Application: 2019/00871/OUT

Proposal: Hybrid application comprising an outline application for the demolition of existing buildings and erection of 44.75ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, ecological mitigation and ancillary works (all matters reserved aside from access) within Area A and ... | Land at Model Farm, Port Road, Rhoose

As the UK's leading woodland conservation charity, Coed Cadw (The Woodland Trust) aims to protect native woods, trees and their wildlife for the future. Through the restoration and improvement of woodland biodiversity and increased awareness and understanding of important woodland, these aims can be achieved. The Woodland Trust owns and cares for over 100 sites covering more than 2,800 hectares across Wales and we have 500,000 members and supporters across the whole of the UK.

Impact to ancient woodland

The Woodland Trust would like to lodge a **holding objection** to planning application 2019/00871/OUT on the basis of potential deterioration and detrimental impact to an area of Ancient Semi Natural Woodland (grid ref: ST077673) designated on Natural Resources Wales' Ancient Woodland Inventory (AWI)¹. The Ancient Woodland Inventory places woodland into one of four categories:

- **Ancient Semi-Natural Woodland (ASNW)** – broadleaf woodlands comprising mainly native tree and shrub species which are believed to have been in existence for over 400 years
- **Plantation on Ancient Woodland Sites (PAWS)** – sites which are believed to have been continuously wooded for over 400 years and currently have a canopy cover of more than 50 percent non-native conifer tree species
- **Restored Ancient Woodland Sites (RAWS)** – woodlands which are predominately broadleaf now and are believed to have been continually wooded for over 400 years. These woodlands will have gone through a phase when canopy cover was more than 50% non-native conifer tree species and now have a canopy cover of more than 50 percent broadleaf.
- **Ancient Woodland Site of Unknown Category (AWSU)** – woodlands which may be ASNW, RAWS or PAWS. These areas are predominantly in transition and existing tree cover is described as 'shrubs', 'young trees', 'felled' or 'ground prepared for planting'

¹ <https://naturalresources.wales/guidance-and-advice/environmental-topics/woodland-management/woodlands-and-the-environment/ancient-woodland-inventory/?lang=en>

Elusen gofrestredig Rhif 294344. Cwmni di-elw a gyfngir o dan warant. Cofrestrwyd yn Lloegr Rhif 1982873.

Swyddfa Gofrestredig: Kempton Way, Grantham, Lincolnshire NG31 6LL. Mae logo Coed Cadw (the Woodland Trust) yn nod masnachu cofrestredig.

Registered Charity No. 294344. A non-profit making company limited by guarantee. Registered in England No. 1982873.

Registered office: Kempton Way, Grantham, Lincolnshire, NG31 6LL. The Woodland Trust logo is a registered trademark.

Ancient woodlands ecosystems, and the soils on which they have developed, are of special importance because of their long history of ecological and cultural continuity. This contributes to ancient woodland being one of the most diverse terrestrial habitats in the UK. By definition, ancient woods are irreplaceable and cannot be replaced by new planting. Therefore, the loss of ancient woodland represents a permanent loss of biodiversity.

All ancient woodlands come within the definition of priority woodland habitats listed in Section 7 of the Environment Act (Wales). The Environment Act places a duty on public authorities to seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales and take all reasonable steps to maintain and enhance those species and habitats as listed in Section 7.

Planning Policy

The Welsh Government recognises that areas of ancient woodland are declining and becoming increasingly fragmented and emphasises the importance of conserving ancient woodland and its value as a biodiversity resource through the publication of Planning Policy Wales version 11 (2021) (PPW 11).

In PPW 11, paragraph 6.4.26 states *“Ancient woodland and semi-natural woodlands and individual ancient, veteran and heritage trees are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees and woodlands should be afforded protection from development which would result in their loss or deterioration unless there are significant and clearly defined public benefits; this protection should prevent potentially damaging operations and their unnecessary loss. In the case of a site recorded on the Ancient Woodland Inventory, authorities should consider the advice of NRW. Planning authorities should also have regard to the Ancient Tree Inventory.”*

We would like to note that in a letter to local authorities and national park authorities across Wales (dated 7 July 2020), Julie James MS, Minister for Climate Change, stated the following in respect of planning and post Covid-19 recovery: *“It is my strongly held view that we must not sacrifice the principles of sustainable development and place making in the pursuit of economic recovery at any cost.”* We consider this a clear commitment from Welsh Government towards ensuring that future development in a post Covid-19 world respects and protects natural assets, such as ancient woods and trees.

The Council should also have regard for **Policies SP10 (Built and Natural Environment), MG21 (Sites of Importance for Nature Conservation, Regionally Important Geological and Geomorphological Sites and Priority Habitats and Species) and MD9 (Promoting Biodiversity)** of the **Vale of Glamorgan Local Development Plan 2011-2026** with respect to the protection of the natural environment.

Impacts to ancient woodland

We are particularly concerned about the following impacts to the ancient woodland from the close proximity of a large-scale commercial development:

- Fragmentation as a result of the separation of adjacent semi-natural habitats, such as small wooded areas, hedgerows, individual trees and wetland habitats.
- Noise, light and dust pollution occurring from adjacent development, during both construction and operational phases.
- Where the wood edge overhangs public areas, trees can become safety issues and be indiscriminately lopped/felled, resulting in a reduction of the woodland canopy and threatening the long-term retention of such trees.

- Adverse hydrological impacts can occur where the introduction of hard-standing areas and water run-offs affect the quality and quantity of surface and ground water. This can result in the introduction of harmful pollutants/contaminants into the woodland.
- Any effect of development can impact cumulatively on ancient woodland - this is much more damaging than individual effects.

When land use is changed to a more intensive use such as in this situation plant and animal populations are exposed to environmental impacts from outside of the woodland. In particular, the habitats will become more vulnerable to the outside influences, or edge effects, that result from the adjacent land's change of use.

Mitigation

Detrimental edge effects have been shown to penetrate woodland causing changes in ancient woodland characteristics that extend up to three times the canopy height in from the forest edges. As such, it is necessary for mitigation to be considered to alleviate such impacts. Potential mitigation approaches for the protection of ancient woodland can help ensure that development meets policy requirement and guidance. Such mitigation may include, but is not limited to, the following:

- Adhering to BS 5837:2012 to provide adequate tree and root protection.
- Measures to control noise, dust and other forms of water and airborne pollution.
- Sympathetic design and use of appropriate lighting to avoid light pollution.
- Producing and funding an access management plan for the woodland, and/or providing alternative natural greenspace to reduce additional visitor pressure.
- Retaining and enhancing natural habitats around ancient woodland to improve connectivity with the surrounding landscape.
- Introduction of sympathetic management for neglected woodlands or trees.
- Implementation of an appropriate monitoring plan to ensure that proposed measures are effective over the long term and accompanied by contingencies should any conservation objectives not be met.

This development should allow for a buffer zone of **at least 30 metres** to avoid root damage and to allow for the effect of pollution from the development. The council should ensure that it is satisfied the width of the proposed buffer is adequate to protect the adjacent ancient woodland. The buffer should be part-planted before construction commences on site. HERAS fencing fitted with acoustic and dust screening measures should also be put in place during construction to ensure that the buffer area does not suffer from encroachment of construction vehicles/stockpiles, and to limit the effects of other indirect impacts.

In addition, Natural Resources Wales has recently published standing advice² which outlines the potential impacts of development on ancient woodland, and also provides recommendations for their protection. We would like to refer the Council to this guidance for further information on how to ensure ancient woodland is appropriately protected from the impacts of development.

Veteran trees

Veteran trees can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks or other areas. They are often found outside ancient woodlands. They are

² [Natural Resources Wales / Advice to planning authorities considering proposals affecting ancient woodland](#)

irreplaceable habitats. A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity, cultural and heritage value.

Trees are susceptible to change caused by construction/development activity. As outlined in 'BS5837:2012 - *Trees in relation to design, demolition and construction*' (the British Standard for ensuring development works in harmony with trees), construction work often exerts pressures on existing trees, as do changes in their immediate environment following construction. Root systems, stems and canopies, all need allowance for future movement and growth, and should be taken into account in all proposed works on the scheme through the incorporation of the measures outlined in the British Standard.

While BS5837 guidelines state that trees should have a root protection area (RPA) of 12 times the stem diameter (capped at 15m), this guidance does recognise that veteran trees need particular care to ensure adequate space is allowed for their long-term retention. The applicant should ensure that any trees displaying veteran characteristics within or adjacent to the site are retained and afforded a suitable root protection area of 15 times the trunk diameter or 5 metres beyond the crown of the tree, whichever is greater. This view is supported by the Ancient Tree Forum.

Conclusion

The Trust wishes to lodge a **holding objection** to this planning application unless the applicant is able to provide the ancient woodland on-site with a larger buffer zone to ensure appropriate protection from the impacts of the development.

If you would like clarification on any of the points raised within this letter, then please contact us via campaigning@woodlandtrust.org.uk

Yours sincerely,

Nicole Hillier
Campaigner – Woods Under Threat
Woods Under Threat Team

Rowlands, Ceiri

From: Thomas, Peter DJ
Sent: 15 November 2022 12:29
To: Rowlands, Ceiri
Subject: RE: Results of Heritage and Ecology Reviews

I'm not aware of any significant changes in either the nature or extent of historic assets which would effect this application. Neither has there been any significant changes in legislation or policy relating to the historic environment.

From: Rowlands, Ceiri [REDACTED]
Sent: 15 November 2022 12:07
To: Cheesman, Colin R [REDACTED] <[REDACTED]@uk>; Thomas, Peter DJ
[REDACTED]
Subject: FW: Results of Heritage and Ecology Reviews

Hello both.

I've received the below letters from the applicant in relation to planning application 2019/00871/OUT at Model Farm. Both look to address the validity of the supporting information. There are specific caveats in the supporting heritage assessment and the ecological assessments, the latter relating to a 2 year expiry for the newt dna analysis.

Please could you review these and let me know if you have any further comments on this application?

I'll ask the question of NRW Colin re GCN, but we do need to be satisfied ourselves that the wider survey work remains valid.

Thanks,
Ceiri

From: Darren Parker [REDACTED]
Sent: 14 November 2022 10:31
To: Rowlands, Ceiri [REDACTED]
Cc: Robinson, Ian <[REDACTED]>; Andrew McPhillips [REDACTED]; Mike Emett [REDACTED]
Subject: Results of Heritage and Ecology Reviews

Ceiri,

Please see the letters attached.

Regards,

Darren

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RPS Group Plc, company number: 208 7786 (England). Registered office: 20 Western Avenue Milton Park Abingdon Oxfordshire OX14 4SH.

RPS Group Plc web link: <http://www.rpsgroup.com>

Date: 20th December 2022
Our Ref: 19.8060

Mr Ceiri Rowlands
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To Mr Rowlands,

Proposed Parc Busnes Porth Cymru Business Park (Ref: 2019/00871/OUT)
Land at Model Farm, Port Road, Rhoose, CF62 3BB
Additional Representations on behalf of The Stevens Family

Further to previous representations submitted on behalf of Mr and Mrs Stevens of The Old Rectory, please find comments prepared by Boyer in response to the outline application submitted on behalf of Legal & General in relation to the proposed Parc Busnes Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhoose (Ref: 2019/00871/OUT).

The outline proposals are for the development of the northern part of the site for a business park. In addition, full planning permission is sought for the change of use of the southern part of the site to form an extension to Porthkerry Country Park.

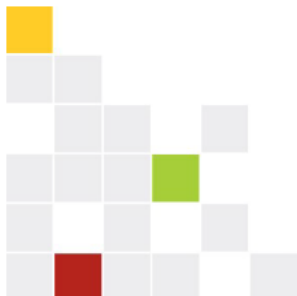
These representations, outlined below, are specifically made in relation to the ongoing determination of the application, review of the most recent Committee Report and additional information provided by the applicant.

We also note the Holding Direction from Welsh Government, which restricts the granting of permission until it is decided whether the application should be referred to the Welsh Ministers. Welsh Government have indicated that they are awaiting an updated report from the Council prior to making that decision.

Drainage

Drainage remains a significant concern of our clients with the application. We understand that other additional information has been provided on wider matters to ensure as up to date evidence base as possible. However, given the concerns surrounding drainage it is unfathomable as to why no further update was requested alongside the other matters.

We reiterate our previous comments that initially Dwr Cymru Welsh Water (DCWW) objected to the proposals and raised concerns over several points. It is still maintained that there is insufficient capacity within existing infrastructure to accommodate foul flows from the development hence a suitable point of connection for water supply has not been identified.



As in previous correspondence we suggest that a Hydraulic Modelling Assessment (HMA) should be part of the outline application as this is a major constraint on a large scheme where capacity is essential to the proposed business. We note that DCWW have requested a condition restricting a connection to the public system until further modelling is undertaken and any subsequent reinforcement works (as necessary) have been carried out (condition 10). However, if the opportunity is available for additional information, then we consider that this should have been undertaken now to limit any further uncertainty.

Notwithstanding the issues raised above concerning capacity, we again reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership of our client, including the garden of their private residence. Moreover, the route of the proposed foul sewer also crosses through the SINC's and areas of Ancient Woodland previously identified in a number of places. Clearly this is wholly unacceptable and would clearly have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species. Although this has been highlighted on numerous occasions, no revisions have been made to take account of this, and no account has been taken in the updated information provided.

Transport

Numerous representations have previously been made relating to the proposed development's impact on transport. We are aware of the most recent November addendum to the Transport Implementation Strategy (TIS) due to the previous reports being conducted within the Coronavirus Pandemic.

From reviewing the TIS addendum it is noted that no new actual surveys have been undertaken, rather the applicant has identified applications in the surrounding area and utilised their recent traffic surveys. Questions are raised as to the validity of this, especially as when the Vale of Glamorgan Highway Officer's response outlines that the Waycock Cross junction analysis has been based on only one day's count on 31st March 2022 (by another applicant for another application). We also note in the response that this is contrary to a required 7 day traffic count that they usually insist upon. We believe that a one-day snapshot of the Waycock Junction is insufficient, and we request a more thorough TIS Addendum which comprises more data points. We also recommend further Traffic Surveying should be conducted in the summer months when there is an increased number of flights from Cardiff Airport.

We also consider that the previous concerns raised within the transport assessment remain unanswered, in particular where the assessment is *'notably reliant upon infrastructure improvement in the locality, in order to promote travel by means other than private car'*, yet it is noted that the development would fail to deliver improvements such as the proposed footway and cycle way itself. Furthermore, from a business perspective, our clients remain surprised that due to the uncovered viability short falls, Officers do not recommend seeking a financial contribution toward sustainable transport, which would equate to in excess of £3,700,000. Rather it is considered that a transfer of a 10m strip of land to the Council across the site frontage with Port Road via the s106 Legal Agreement would be acceptable to compensate for the fact that the development would fail to deliver any sustainable links itself. Clearly this needs much further consideration and should have been accounted for in any updated information provided.

Viability

Questions as to the overall financial viability of the application have been one of the major limitations since the inception of the project. With the original decision being quashed due to the viability reports not being released to the public, we previously noted that serious questions needed to be raised at

Planning Committee as to why this wholly unviable scheme is continuing or indeed needed, and also to question what is the ultimate end goal for Legal & General for the site.

We again note that the Committee Report acknowledges that the development remains unviable and that gap funding for primary infrastructure would likely be required for the development to become viable. It is evidenced, via the previous Avison Young report, that the development was predicted to result in a loss of £10,405,000M before interest, or £34,508,455M if interest costs were payable at 5%.

It is maintained that the development will not be able to support the level of s106 contributions required for off-site road improvements, improvements to sustainable transport, and improvements to Porthkerry Park. The implications from the unviable nature of the development on the s106 contributions are outlined in the Committee Report, and clearly illustrate a woeful shortfall in the provision to be provided.

Ecology

Reservations also remain in the area of ecology, principally regarding the impacts of habitat loss and hedgerow loss from the development and on the number of rare species that have been recorded on site. In fact the ecological information provided on behalf of Mr and Mrs Stevens previously noted that in their expert view it was highly suggestive of a wider presence of protected biodiversity within both the area immediately adjacent to the proposed development, as well as within the application site itself.

Having reviewed the November Ecology addendum and site walkover assessment, we consider that there are still further works required. In this regard we highlight the recent Natural Resource Wales (NRW) response, and in particular the concerns relating to the Habitat Suitability Index (HSI), assessment of the on-site pond for its suitability for Great Crested Newts (GCN).

NRW clearly state that the HSI survey is only an assessment of the potential suitability of the habitat within a pond to support GCN, and that only a further eDNA survey for GCN can update the previous eDNA survey that was undertaken. We respectfully request that this information is provided.

Moreover, we reiterate that Conditions 6 and 7 which refer to an updated Precautionary Dormouse Strategy and Biodiversity Management Strategy, however suggest that these must carefully consider the impact of the proposal on the existing habitat and extended area to ensure no harm to the abundant adjoining wildlife and ecology. We consider that this information should be provided now, having made a request for an up to date evidence base.

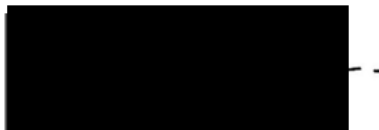
Summary

In summary, we continue to have strong reservations regarding the proposals, many of which have been previously raised and continue to be unaddressed by the applicant, which it is felt must be resolved before the proposals can be appropriately determined. The route of a proposed sewer across our clients' land must be addressed urgently and we must be kept informed as the issue is addressed.

Even with the additional information we consider that the proposed development continues to raise concerns regarding drainage, transport, and ecology. However, with the publication of both the RPS & Sutton and the independent Avison Young report, it is clearly evident that this scheme is wholly

financially unviable and has considerable impacts upon the required s106 contributions levels to be provided. There are serious questions as to how such an unviable scheme can even be considered by the Council.

Yours sincerely

A black rectangular box redacting the signature of Simon Barry.

Simon Barry
Associate Director

Tel: 
Email: 



**VALE COMMUNITIES UNITE AGAINST THE DEVELOPMENT
OF
MODEL FARM.**

Report to Planning Committee.

PLANNING APPLICATION 2019/00871/OUT

INTRODUCTION.

Vale Communities Unite are a group who campaign on behalf of the community of Rhose and surrounding areas, who fervently oppose the building of a business park on Model Farm in the Vale of Glamorgan. The group was set up as a result of the consultation process that was instigated by both the applicant for this development, Legal & General Group and the Vale of Glamorgan Planning Department. The result of both consultation processes resulted in strong opposition to the development which to date has been mostly ignored by both parties involved.

It is our submission that Legal and General undertook the purchase of land, near airports, around the United Kingdom, which included Model Farm, not to act as responsible custodians of the countryside but as a land banking exercise for the financial benefit of their investors. They openly state that this has been an exercise they have been working on for the past twenty years. We have suspicions that this has involved the lobbying of not only Local Authorities but also Welsh Government to achieve their aim!

At one time Model Farm was included in the allocated 'Green Wedge' but was removed from it as a result of an independent planning inspectors report on behalf of the council. The inspector identified it as potential development site and financially necessary at that time. No consultation exercise appears to have been carried out and it was removed from the green wedge by a decision made by the then council members. We are not fully satisfied that the appropriate processes were engaged in this decision as we are aware of residents in close proximity to the site who state they were not consulted on this matter?

As a result of Councils being asked to identify land for Local Development Plans the area of Model Farm that had been removed from the green wedge was put forward and added to the council's plan. It has been suggested that this was at a point when local council elections had been carried out and was instigated by Welsh Government who put pressure on the incoming council to allocate land for their LDP before Welsh Government made the decision for them.

The Head of Regeneration and Planning has deemed it necessary for the planning committee to determine this application, due to the high level of public interest. That interest is clearly opposed to the development. The planning officer's report clearly states that the community, local councils, MP and AMs have all register objections which appear to count for nothing.

It is our view that the Planning Department are presenting a one sided view to the planning committee in the favour of the applicant. There has already been a judicial review that found a viability report had been wrongly withheld from the public. The last time this application was due to come before the planning committee it was withdrawn due to representation by this group that highlighted some of the reports the committee were presented with were out of date.

We are submitting this report in order that there is a balanced argument against this application and providing members of the planning committee with the relevant reasons they can consider to make a fair decision.

We would like to remind members of the committee that they do not have to accept the Planning Departments 'recommended acceptance' of their report but should strongly question aspects of it that result in material considerations. These include how it may effect the environment,

biodiversity, the impact and wellbeing of the local community, the farmer, his home and his business. Is this proposal viable and necessary at this time?

Viability Reports by Avison Young and Sutton Consultants.

These are the documents that were withheld from the public and resulted in the judicial review. You should find them on the planning portal and they need to be read as they are pertinent to this application.

In their original financial viability report Avison Young and Sutton Consulting state the project is not financially viable and would require significant public funding to bridge the gap with estimated losses of between £10,405,000 and £34,508,455. Their recent update indicates that this would now be higher due to increased construction costs.

Mr Andrew McPhillips (Managing Director Legal and General – Strategic Land and Major Projects) has gone on record stating that the build costs for this development would have increased to between £80 million and £100 million. This is bound to have an impact on the viability report produced by the above consultants and should be seriously questioned.

Welsh Government advice and Planning Obligations Supplementary Planning Guidance make it clear that development viability is a material consideration in determining planning applications.

In the professional opinion of Avison Young in their report of May 2020, page 7, Section 4.3 they state “We think it unlikely that this level of demand exists in this location. We are of the opinion that the take up rate proposed is unachievable as evidenced below.

:-Competition from existing business parks and the recently launched Bro Tathan Development will undoubtedly have a detrimental impact on take up.

Avison Young submitted a further report dated 23rd September 2022 which outlined some of the nearby sites that may impact on the business development near Model Farm.

They identify Bro Tathan and highlight limited uptake on this development. (The Aston Martin Company was attracted to this development by a substantial financial incentive provided by Welsh Government. There was interest shown by Britishvolt to develop a vehicle battery plant but this didn’t materialise and it took it business elsewhere).

They point out that the Ford Plant in Bridgend has closed and that the site has been acquired to a single development purchaser.

Aberthaw Power Station has been acquired by the Cardiff Capital Region and is expected to be developed into a renewable energy hub.

There are further business development parks located at Vale Business Park, Dyffryn Business Park, and others throughout the vale that are struggling to attract businesses to the area.

The applicant states there is the potential for in excess of 4000 jobs to be created on this site by an undisclosed developer. Why has this developer not made use of the other available sites, which could attract Welsh Government backing? If they are that keen on moving their business to the Vale why haven’t they already done so during this lengthy application process?

There are clear guidelines regarding planning applications of this type that highlight the necessity for the development if other suitable sites are in close proximity. We suggest there is more than enough evidence of such sites so why are the planning department suggesting Model Farm, a green field site, is concreted over?

Has a recent employment needs assessment, required before planning decisions are carried out, to evidence the need and necessity for a business park been undertaken?

Given the number of such parks within the Vale that are struggling to attract businesses onto their sites, the fact Avison Young state there is no demand for such a development, and is in fact in the wrong location to attract appropriate business, why are the Vale Planning Department suggesting approval of this application?

Section 106 Funding.

The committee should be aware of the objection letters submitted regarding this issue. It has been highlighted that section 106 funding should be in the region of £3.7 million but the developers have offered only £500,000 as they state their viability becomes even more awkward. In return they have offered the Vale land that connects to Porthkerry Park. This is land still within the Green Wedge and of no financial use to Legal & General and which, if kept in their portfolio they would have to maintain at cost.

Has this deal already been signed and accepted on behalf of the Vale Council putting them in a difficult position with regards to this planning application?

The Farmer and His Family.

This was one of the matters that were not adjudicated on during the last judicial review. It is deemed a material consideration and should not be brushed aside as if a justifiable casualty of this application. L&G have demonstrated they appear to have no concern for the welfare of their tenant farmer and much like the Vale Planning Department see them as collateral damage in this application.

The loss of this farm means not only the loss of a home but also of a business that works to supply the vale and surrounding areas with food produce. There is also a thriving wild flower seed business that will be lost. This will not only impact the farmer but also the suppliers and businesses they deal with. This is a point that the Planning Department has failed to consider.

Biodiversity and a Working Farm.

For years the Jenkins family have nurtured the land supplying food to the surrounding areas and in doing so have helped the biodiversity on the farm to thrive. There are a number of Protected / Endangered species recorded on the South East Wales Biodiversity Records Centre (SEWBREC), which live and breed on the farm.

The world has changed dramatically since Legal & General took the gamble to purchase this farm. Recently it has been reported by the BBC that Wales is in danger of losing 25% of its wild bird

population due to humans and development. COP 15, dealing with biodiversity issues, has been held in Canada and was attended by Julie James MS representing the Welsh Government.

The U.K as a whole was subject to severe criticism for its watering down of previous strong Biodiversity and Climate Emergency statements. We as a country were asked to demonstrate our commitment to this by giving clear leadership to the world on our commitment to this important cause. I need not remind you that the Vale Council has given their commitment to these important concerns.

An ecologist working on behalf of RPS, which is linked to both them and Legal & General, had failed to record or acknowledge many of the endangered species on the farm. Reports from the Vales Ecology Officer, alongside that from Natural Resources Wales, have indicated that there are some rare species on the farm, none of which are endangered. This is fervently rejected by Vale Communities Unites and we suggest this is a very misleading statement.

You should all be aware of the following findings that have been previously submitted to you, by email from our group but are summarised below as a reminder. This was one of the reasons the application was withdrawn from the earlier planning committee agenda.

Vale Communities Unite felt it pertinent to respond to the previous ecology report. We feel there were major discrepancies in the report submitted by RPS and believe the Planning Department had a duty to clarify the situation.

The ecologist writing the report is working on behalf of RPS, funded by Legal and General, who are the company requesting planning permission.

The ecologist noted that the field layout and hedgerow boundaries remain '*unchanged being intact but species-poor comprising predominantly of hawthorn Crataegus monogyna and blackthorn Prunus spinosa.*'

On a two hour walk with interested wildlife recorders it has been noted on 19/11/22 that in fact there are more than hawthorn and blackthorn on the 5 hedges within the boundary of the proposed development, and one roadside hedge leading up to the boundary of the land.

Species include:-

Hawthorn, blackthorn, dogwood, hazel, oak, field maple, ash, privet, holly, willow, wild cherry, clematis and spindle.

Wildlife recorded on Model Farm includes the following bird list which have protected or Red Flag Status:-

Black-headed gulls, meadow pipits, skylarks, starling, magpie, robin, common linnet, yellow hammer, kestrel, dunnoek, house sparrow.

The following animals are examples that are also recorded:-

Brown Hare (protected species). Four specific types of Bat (protected species). Badger's (protected species). Harvest mouse (Endangered list).

There is further evidence of a variety of flora, fauna and fungi present on the farm that encourage pollinators essential to biodiversity.

Model Farm is evidence of a green field area which helps to nurture nature of a wide variety that will be significantly harmed if proposals go ahead. Appropriate identification of at-risk species, harm of taking away natural corridors, habitat and foraging opportunities have not been adequately addressed prior to application of planning permission. These issues are of material consideration and are required to be considered under TAN and Wildlife Legislation.

Maybe you should consider asking the Planning Department to explain why the report by RPS had failed to note and address the presence of a full list of endangered and protected species on the farm? What has significantly changed in their report to alter the mind of the Council Ecologist to approve it?

Now that they have been made aware of this, it highlights a major discrepancy in the report submitted by RPS and the Planning Department has a duty to clarify the situation as they are now aware of a material consideration that could affect this planning application.

The planning Department will probably say they can mitigate these findings by ensuring that endangered wildlife is encouraged back to the area on completion of this build. They have listed this as yet another reserved matter. Can they tell you where these species are going to move to during the developments construction and how will they survive in order to return? Is there evidence of previous mitigation measures that have proved successful in other such developments and are the Planning Department able to provide the evidence for this?

Water and Sewage.

The difficulties being experienced at the Cog Moor Sewage Treatment Plant should be something this committee is more than aware of! The fact that raw sewage is emitted into the Bristol Channel from this plant is something that should concern the whole of South Wales as it has the potential to affect the health of people using the coastal areas.

We would point out that, since this application was applied for, in excess of 250 houses have been given permission to be built in Rhosce that will add to the capacity of the sewage network. An overview of Dwr Cymru / Welsh Waters findings has been given on page 51 of the planning officer's report. We wish to draw your attention to the following paragraphs.

"As highlighted within our consultation response (Ref: PPA0004091) we have considered the impact of foul flows generated by the proposed development upon the local sewage network and concluded that it is unlikely that sufficient capacity exists to accommodate this development. Our response also fails to identify a suitable point of communication for the proposed development site to be served by an adequate water supply. Accordingly, the developer has been advised it will be necessary to undertake Hydraulic Modelling Assessments of the public sewage and portable water supplies networks and consider the impact of the introduction of flows from this development and then identify solutions points of communication to ensure the site can be accommodated within these systems."

“No reserved matters application shall be approved by the Local Planning Authority and no development of that reserved matter site shall commence until a foul water drainage scheme, for that reserved matter site and/or other identified part has been submitted to and agreed in writing by the Local Planning Authority”.

This is again a matter that requires serious consideration. The sewage and water issues have been highlighted as reserve matters by the Vale Planning Department. It is our argument that Legal & General want planning permission to destroy the farm buildings making the farm unworkable and the removal of the tenant farmer.

The Hydraulic Modelling Assessment should, in our view, be undertaken before any outline planning permission is approved and not held as a reserved matter. The reason for this is obvious, if for any reason the development cannot go ahead because of water and sewage issues the Vale will have lost a farming asset for good and could be left with an eyesore on its ‘Gateway to Wales’.

The land being gifted to the Vale for inclusion to Porthkerry Country Park will also be used for attenuation ponds to help with drainage for this proposed development. As the ponds are located on the gifted land it will fall under the control of the Vale Council to maintain them. Legal and General have offered Section 106 funding to the sum of £500,000 to help develop and maintain the gifted land. This amount was negotiated prior to the cost of living crisis and is now out dated and in our opinion needs revisiting.

Council’s Conservation Officer.

It should be noted that the Council’s Conservation Officer has recommended refusal of this application due to the impact it could have on a number of Grade II listed buildings and buildings listed as a ‘County Treasure’s’ in close proximity.

The implications of water drainage from such a development and location of the attenuation ponds have the potential for flooding to Porthkerry Park and Edgerton Grey House which in our view isn’t acceptable.

We have already mentioned the term ‘Gateway to Wales’ used by both Welsh Government and the Vale when referring to Cardiff Airport. It’s been suggested that this development will have minimal visual impact on the surrounding area. We would argue that it would significantly detract from the visual appreciation by both the local community and visitors to the area.

There is a list of reserved matters highlighted in the planning officer’s report, which could in effect delay this development for a number of years. The farm would essentially be uninhabited or maintained resulting in the area around the airport becoming an eyesore. It has already been noted that a parcel of land identified for use as a transport hub will remain unused. The term Gateway to Wales may need to be redefined if this were to go ahead!

Transport and Infrastructure.

A current transport assessment has been carried out on behalf of the Planning Department for this development. The results state that the assessed impact of development traffic to Sycamore Cross junction was not significant.

We would like to clarify whether the impact of additional housing at Rhoose, the possible increase in traffic to the airport, the possibility of a 'Free Port' at the airport, the development of Aberthaw Power Station and the predicted increase of 4000 employees at Model Farm, should it go ahead, have been calculated in this assessment.

Green active travel schemes have been given as mitigation for the development. Has a viability study been carried out to gauge whether this is feasible given the location of the farm from available housing and the nearest rail station? L&G have stated that it intends to attract a work force from the aerospace industry. Where are these employees going to actually travel from within the Vale?

We would draw your attention to the Welsh Government Connectivity Study-

The Case for Change (Final Report) February 2018.

Page 11 of the report is entitled 'Transport Connectivity Baseline', and outlines the following.

- The land-use development and socio-economic 'cases' set out above clearly highlight the scale of the Enterprise Zone (EZ) and its socio-economic importance to South Wales. However, the current transport connectivity of the VoG is considered to be a constraint in the development of the EZ sites and thus the benefits associated with it. Specifically:
- Whilst the M4 provides high quality strategic access points to the VoG, the local road network within the Vale is generally of a single carriageway standard and suffers significant congestion around the primary 'gateway' of Culverhouse Cross. Accessibility analysis shows that the need to route via J33 of the M4 and the busy Culverhouse Cross does have a negative impact on both journey length and reliability.
- The most direct route from the M4 to the EZ is via J34 of the M4. However, the connecting road is of a poor quality with lengthy single track sections and poor visibility. The J34 option has become a rat run for those travelling to the VoG from the west, with negative implications for communities along the route, including Pendoylan.
- Whilst there is a reasonable public transport network connecting Cardiff City Centre with the Airport (and, to a much lesser extent, St Athan), connections from elsewhere in the Capital Region and areas to the west are limited, infrequent and generally require interchange. It is notable that those currently working in the EZ area generally travel to work by car.
- Public transport journey times to the VoG generally and the EZ specifically are well in excess of those by car.
- Freight access to and from the Vale of Glamorgan is sub-optimal, with issues associated with journey time reliability, routing through broadly residential areas and a circuitous route to West Wales. The area around Cardiff Airport has a high proportion of freight intensive industries, whilst the focus of the EZ on aerospace and manufacturing means that there is likely to be significant growth in freight movements from the VoG in the medium-term. The provision of appropriate freight routes to the M4 is a key consideration of any future improvements to VoG connectivity.

We would suggest that little has changed since this report was created. The link from the M4 junction 34 has not been completed and Welsh Government has stated that there is no significant road building being planned in the near future.

Can the Planning Department explain how they intend to mitigate the increase in traffic, including HGVs, if this application is approved? Can they further explain the cost to the public purse that will be needed to provide initial access to the site at a time the Vale Council are stating they do not have sufficient money to fund it?

Conclusion.

It is our argument that this site is financially unviable, is in the wrong location to attract investment (as identified by consultants), is a loss making project, will impact on the well being of residents in the rural Vale, does not have the road infrastructure to accommodate a development of this size, is harmful to the biodiversity in the area and is against the climate emergency statements signed up to by the Vale Council. If granted we lose a valuable farm helping to providing food security in this changing world.

Welsh Government has given this committee the option of refusing this application. Given the above reasons we feel that this is the appropriate course of action to take.

Submitted on behalf of the Committee of Vale Communities Unite.

Email 1 of 2**Response to the VOG Planning Committee – for 1st March 2023****Planning application 2019/00871/OUT**

1. On behalf of Vale Communities Unite. Following the receipt of legal advice, We request that the Planning Committee defer consideration of the above application, as Planning Officers have failed to comply with specific requirements of **Planning Policy Wales – Edition 11 and inter alia**. There is a reasonable and legitimate expectation that the Council would comply with the legal and policy requirements of Welsh Government in considering application no. 2019/00871/OUT.
2. Complying with Planning Policy Wales is not an optional extra but a firm requirement. Not doing so is a **material consideration** limiting approval of this application. The evidence base and Officers Report does not meet the requirements of paragraphs 4.2.21 and 5.4.8, and other areas of Planning Policy Wales and Technical Advisory Note 23. These areas of Welsh Government Planning Policy are very specifically addressed to B1, B2 and B8 Employment sites and planning decisions.
3. Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government. It is supplemented by a series of Technical Advice Notes (TANs), Welsh Government Circulars, and policy clarification letters, which together with PPW provide the national planning policy framework for Wales. Officers appear willing to take shortcuts to try and convince the Planning Committee to approve the Model Farm planning application, and recommend approval, with an inadequate and flawed evidence base. You will be aware that Officers presented evidence to the Planning Committee meeting of the 19th October 2022 which was out of date, which resulted in the application being previously deferred.

Evidence required by Planning Policy Wales

4. The Officer's Report does not provide evidence about the need for the development as required by Planning Policy Wales – Edition 11 and Technical Advisory Note 23.
5. Planning Policy Wales says at paragraph 5.4.7 that ***'Development plans and development management decisions should be based on up-to-date local and sub-regional evidence'***.
6. Planning Policy Wales - Edition 11 - under the section headed 'Providing Sufficient Land needed by the Market' says at paragraph 5.4.5 that ***'Evidence to inform the provision of economic development uses is key, and planning authorities should work together to produce Employment Land Reviews (ELR)'***.
7. Planning Policy Wales – Edition 11 – under the section headed 'Economic Evidence and Employment Land Reviews' says at paragraph 5.4.8 that ***'Employment Land Reviews should be kept up to date and relevant to prevailing market condition and the needs of the development plan'***.
8. **We wish to point out that the Council's Employment Land and Premises Study is now ten years old.**
9. In addition, prevailing market conditions have substantially altered, with issues like sustainable development, the COVID pandemic and active travel requirements emerging

since the Council's evidence was produced ten years ago. Paragraphs 4.2.21 and 5.4.8 of Planning Policy Wales are very specific in requiring planning authorities to evidence the continued need for the development, and to provide additional financial viability in such circumstances. The Council has failed to ensure that this has occurred.

10. The Planning Officer refers to ten-year-old evidence, as pertinent to the current situation, on page 82 of the Report. This is clearly unacceptable for an application of this magnitude and high level of public interest.
11. Similar references to the use of current Employment Land Reviews are made, inter alia, in Technical Advisory Note 23 – Economic Development. These are in regard to producing development plans and in determining planning applications. These are in paragraph 1.1, 1.2.7, 1.3.1, 1.3.3, 2.1.10, and 2.1.14.
12. The requirements of TAN 23 – as set out at paragraph 4.5.2 – is that *'persistent oversupply of employment land may cause harm where the planned land supply exceeds demand, so that allocated employment sites remain vacant for long periods and frustrate development for other land uses'*. We can provide a list of available B1, B2 and B8 employment sites totalling over 1000 hectares within 30 miles of Cardiff Airport.
13. There is another land use that is supported by Welsh Government policy and guidance. It is called **Farming**.
14. Additionally, Planning Policy Wales says at paragraph 5.4.9 that ***'It is important that planning authorities are aware not only of their own areas but of the surrounding region'***. No evidence is provided of the impact on the wider region or the availability of substantial employment land in neighbouring local planning authorities. Cardiff Council, Bridgend Council, Rhondda Cynon Taff Council and Newport Council all have employment land sites being actively marketed in the B1, B2 and B8 categories. Page 81 of the Officers report fails to mention the wider land availability as required by Planning Policy Wales.
15. The Officer's report quotes very selective extracts from Planning Policy Wales on page 72, but does not tell the Planning Committee that it has not complied with the requirement of paragraph 4.2.21 and 5.4.8 inter alia. We have a reasonable and legitimate expectation that the Planning Committee be provided with a full range of the evidence available, not selective extracts.
16. On page 82 the Officer's report refers to TAN 23 but does not tell the Committee that the evidence does not comply with Planning Policy Wales.
17. We also wish to point out that the Council's Employment Land and Premises Study was already four years old when the Local Development Plan (LDP) was formally adopted in June 2017. We are incredulous that the Planning Committee and the Planning Function of the Council has been so lax in not having key evidence updated on a regular basis.
18. Incomplete evidence is provided in the Officer's Reports to substantiate the need for this development, and once again we believe that the Planning Function has demonstrated that it is willing to provide inadequate and out of date information to the Planning Committee.

Without proper evidence, the views of the Planning Officer are pure conjecture, only have the status of personal opinion, and expose the Council to the risk of further legal challenge.

Financial viability evidence

19. Planning Policy Wales (11th Edition, February 2021) explains the exceptional circumstances for viability assessment at the application stage and the need for such an exercise to be 'open and transparent'. The applicant has failed to do this by not providing financial information about the costs required, from public funding, for the access infrastructure. Planning Policy Wales is very specific on this point, and provides examples of where additional financial information is required – the presumption and legitimate expectation included in Planning Policy Wales, is that the planning authority and developer will operate on an 'open book' basis. In the event of a recession or other significant economic changes require the planning authority to include details site and infrastructure costs. We argue that a 'pandemic' resulting in very significant economic costs – raised interest rates, unprecedented increases in the cost of living and general inflation, predicted recession by the Office of Budget Responsibility and the OECD, and the war in the Ukraine are such events, but the applicant and the Council have failed to account for, and quantify: -

- a. The cost to the public purse of providing the road infrastructure; and
- b. The impact of steep increases in construction costs.

Put simply, the Planning Authority and the applicant have not stated whether the cost of access infrastructure and gap funding referred to on page 110 of the Officer's Report is £5 million or £50 million. It is left up to the Planning Committee and other interested parties to guess. This is a clear departure from the requirements of Planning Policy Wales to operate on an 'open book' basis. This matter was raised by the Barrister in the Judicial Review papers on application 2019/00871/OUT (Model Farm) in 2021. We raise it again.

20. The specific section of Planning Policy Wales is - *"4.2.21 Where up-to-date development plan policies have set out the community benefits expected from development, planning applications which comply with them should be assumed to be viable and it should not be necessary for viability issues to be considered further. It is for either the applicant or the planning authority to demonstrate that particular exceptional circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision-maker, having regard to all the circumstances in the case, including whether the development plan and the viability evidence underpinning it are up-to-date, and any change in circumstances since the plan was adopted. **Such circumstances could include, for example, where further information on infrastructure or site costs is required or where a recession or similar significant economic changes have occurred since the plan was adopted.** Where negotiation is necessary, the planning authority and developer should operate in an open and transparent manner with all information provided on an 'open book' basis'.*

21. **Not meeting the specific requirements of Planning Policy Wales is a material consideration and the Planning Committee should defer consideration of the application until an up-to-**

date Employment Land Review is included within evidence, and the amount of gap funding required by from the public purse is quantified.

Vale Communities Unite

Email 2 of 2

Additional response to VOG Planning Committee – 1st March 2023

MODEL FARM – Planning Application number 2019/00871/OUT

Equality Act 2010, Human Rights Act 1998 legislation inter alia.

1. Further to our e-mail of 26th February 2023, we wish to make representations to the Planning Committee about errors and omissions made by Planning Officers in the matter of Model Farm – Planning Application number 2019/00871/OUT.
2. Firstly, however, we wish to make a general point. The Council will be aware that the progress of the Legal and General application at Model Farm has been tortuous. A Judicial Review in 2021, which resulted in the VOG Council acknowledging that it acted unlawfully, and the embarrassing spectacle of the Planning Committee having to defer the application at the Planning Meeting of the 19th October 2022, because Officers had presented out of date information to the Committee.
3. It is not our role to constantly point out to the Council, where Planning Officers have failed to do their jobs properly. It is the **Leadership and Governance responsibility** of the Leader and Cabinet to ensure that this occurs. Collectively you have failed in this responsibility.
4. We still have serious concerns to raise with you about the application. In addition to the previously mentioned concerns regarding evidence and financial viability, we have identified a further key failing and omission in the evidence base to support the application.
5. You will be aware that Local Authorities in Wales are under a duty not to discriminate, as both service providers and exercisers of public function for purposes of the Equality Act 2010. Indirect discrimination occurs when a neutral policy or practice puts people with a protected characteristic at a particular disadvantage compared to those who do not have it. Indirect discrimination is susceptible to a proportionality justification, hence it has particular significance in planning law and practice, requiring a Equality Impact Assessment (EqIA) in the scheme development and decision-making processes.
6. In addition to the substantive duty not to discriminate in the exercise of its function, local authorities are subject to the public sector equality duty (PSED) which imposes a procedural requirement when the authority exercises its functions, including those

pertaining to its own meetings, and the exercise of the planning function. Namely the need to :-

- Eliminate unlawful discrimination harassment and victimisation and other conduct prohibited by the 2010 Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who not, including tackling prejudice and promoting understanding.

7. Accordingly, Section 149 requires a local authority to have due regard to the need to, inter alia, eliminate discrimination and advance equality. To quote from relevant case law :-

'The duty is personal to the decision maker, who must consciously direct his or her mind to the obligations; the exercise is a matter of substance which must be undertaken with rigour, so that there is a proper and conscious focus on the statutory criteria and proper appreciation of the potential impact of the decision on equality objectives and the desirability of promoting them. Whilst there is no obligation to carry out an EqlA, if such an assessment is not carried out it may be more difficult to demonstrate compliance with the duty. On the other hand, the mere fact that an EqlA has been carried out will not necessarily suffice to demonstrate compliance.'

8. It is our assertion, backed by a substantial body of documents and case law references that in regard to the Model Farm development the Council has failed to ensure that it has taken indirect discrimination issues into account. It has failed to ensure that there has been proper and conscientious focus on the statutory criteria including the Equality Act 2010, and the Human Rights Act 1998. To make this simple for you, there are no references in the Officer's Report for the Model Farm application of the Council making any effort to consider a raft of Equality and Human Rights issues pertinent to the application. You have not even completed a basic Equality Impact Assessment.
9. We could expand significantly on this issue and point out where the application fails to address obvious and basic areas of indirect discrimination. We assure you that they are substantial, relevant and have been covered elsewhere in case law. Should the application be approved without addressing the issue of an EqlA further legal challenge will be inevitable. These basic requirements have also not been included in the various policy documents supporting the Model Farm planning application.

10. We will however, refer you in planning terms to the principles established in the case of *Bracking v Secretary of State* 2013. The PSED duty '*must be exercised in substance, with rigour and an open mind*'. In this planning application neither of these has occurred.
11. In further case law it has been demonstrated that '*even where express reference is made to the duty that is not, of itself, sufficient to demonstrate compliance.*'.
12. Welsh Government Guidance describes the EqlA process as '*a systematic and evidence-based tool, which enables public bodies to consider the likely impact of work on groups of people*'. Accordingly, such assessments need to be based on good evidence which includes listening to the views of people likely to be affected. In this regard we believe that the Council has failed to provide evidence that this has occurred.
13. Further case law recognises that the production of an EqlA in planning applications is considered and recognised as good practice, as it enables and encourages a structured assessment to be made. No such action has taken place in regard to the Model Farm application. We do not believe that the Council has taken due regard of the PSED, by failing to assess the particular needs of people with protected characteristics particularly in regard to race, age and disability considerations. The Officer's Report and supporting documentation gives no indication that specific indirect discrimination has been considered.
14. In our view, the Planning function of the Council has become fixated on the need to approve the Model Farm application at all costs, and to the exclusion of considerations of the general PSED obligation and other important elements of planning law and guidance. It has given a tokenistic consideration of some aspects of the impact on people with protected characteristics which will be challenged.
15. The Planning Function have not exercised their professional duties in a satisfactory way, as they have failed to recognise the importance of ensuring that EqlAs are an integral part of scheme development requirements, no matter how pressing the needs of the developer are, or if the proposed development is included in the Local Development Plan. The PSED obligation cannot be trumped or side-lined by the profit motive of a developer. EqlA should be genuinely used to inform the planning process based on evidence considerations of impact. This requires that decisions are documented contemporaneously making it clear in Officer's Reports how the needs of all those with protected characteristics have been considered and how relevant policies have been taken into account.

16. In summary, we contend that:-

- the Council has failed to take it's Public Sector Equality Duty into account in considering Planning Application number 2019/00871/OUT and this is a material consideration.
- It has failed to undertake an Equality Impact Assessment on supporting policy documents and the application itself resulting in potential harm to those with protected characteristics;
- It has treated the Public Sector Equality Duty as a 'tick box' exercise, rather than seeing it as a duty which needs to be seen to have been performed.

17. Therefore we ask that the Planning Application be deferred until these shortcomings have been addressed.

Vale Communities Unite

Date: 1st March 2023
Our Ref: 19.8060

Mr Ceiri Rowlands
 Vale of Glamorgan Council
 Civic Offices
 Holton Road
 Barry
 CF63 4RU

Third Floor, Park House
 Greyfriars Road
 Cardiff
 CF10 3AF

T 029 2073 6747
 F 029 2073 6631

Dear Mr C. Rowlands,

**PROPOSED PARC BUSNES PORTH CYMRU BUSINESS PARK (REF: 2019/00871/OUT)
 LAND AT MODEL FARM, PORT ROAD, RHOOSE, CF62 3BB
 REPRESENTATIONS ON BEHALF OF THE STEVENS FAMILY - PLANNING COMMITTEE 1st
 MARCH 2023**

Further to numerous previous representations submitted on behalf of Mr and Mrs Stevens of The Old Rectory, please find comments prepared by Boyer in response to the outline application submitted on behalf of Legal & General (Strategic Land) Ltd in relation to the proposed Parc Busnes Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhose (Ref: 2019/00871/OUT).

These representations, outlined below, are specifically made in relation to the proposed hybrid application and reiterate those made prior to the determination at the July 2021 Planning Committee, and the issuing of the Decision Notice (subsequently quashed) as well as the recent re-consultation in December 2022. These representations are submitted in the context of the current Planning Committee Report for the 1st March 2023.

We also note the Holding Direction from Welsh Government, which restricts the granting of permission until it is decided whether the application should be referred to the Welsh Ministers. Welsh Government have indicated that they are awaiting an updated report from the Council prior to making that decision.

Drainage

Having reviewed the Planning Committee Report, we again reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership of our client, including the garden of their private residence. This is of significant concern not only for the landownership but also the impacts upon wildlife and landscape.

As you will be aware, Welsh Water (DCWW) initially objected to the proposals for the following reasons:



- Site layout should take account of the location of the sewer;
- It is unlikely that sufficient capacity exists to accommodate foul flows generated by the development; and
- The proposed development is within an area where there are water supply problems, for which no improvements are currently planned.

The Committee Report has outlined several conditions, including for the submission of a Hydraulic Modelling Assessment (HMA) prior to the submission of any reserved matters applications. This is contrary to DCWW's preference for such assessments to be provided up front as part of an application submission, setting out that development should not be supported where there are no known solutions.

Notwithstanding the issues raised above concerning capacity, we hereby reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership of our client, including the garden of their private residence. Moreover, the route of the proposed foul sewer also crosses through the SINCs and areas of Ancient Woodland previously identified in a number of places. This would clearly have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species. Although this has been highlighted on numerous occasions, no revisions have been made to take account of this.

The farcical nature of the proposed foul drainage route is also highlighted in the attached DCWW correspondence to our clients (dated Nov 2021) which states that '*Our initial assessment of the route identifies a host of physical and ecological constraints which would render the route unviable, therefore not able to be adopted by us*'.

As detailed in the Committee Report, DCWW and Natural Resource Wales both maintain that the local drainage infrastructure is considered inadequate to accommodate the proposed capacity of this development.

Noting the lack of plans to improve capacity and risk of overwhelming the public sewerage, DCWW concerns remain where it is '*unlikely that sufficient capacity exists to accommodate the development without causing detriment to the existing services*' that includes the Porthkerry Sewerage Pumping Station adjacent to The Old Rectory. Comments raised by DCWW further highlight the failure to identify a suitable point of communication for the proposed development site to be served by adequate water supply.

It is acknowledged that Condition 8c addresses the impact of proposed excavation works for the drainage and SuDS proposal on existing trees, however the works continue to raise concern regarding the proximity of the proposed sewer and risk of direct damage to the Root Protection Area of several old trees located within the curtilage of The Old Rectory. Moreover, additional surface water drainage carried by the existing streams that may arise from a reduction of permeability of land threaten several of the old oaks positioned directly on the banks of the streams.

As detailed within Condition 9, a foul water drainage scheme is to be agreed prior to approval of reserved matters or commencement of development for that site and/or other identified. Also Condition 10 requires that no development shall take place on any phase of development, until a point of connection to the public sewerage system for that phase and/or other identified part, has been identified by a hydraulic modelling assessment. There remains significant ambiguity on this point and no additional works have been undertaken.

Condition 11 relates to whether the scheme can demonstrate that the existing water supply network can suitably accommodate the proposed development site. Condition 12 relates to the proposed SuDS for surface water disposal, where the proposed designated SuDS attenuation areas surrounds the boundary of our client's land reservations remain on the impact this may have on private land of The Old Rectory.

The Council is reminded that where plans seek to go through and surround our client's land we must be made aware and kept informed in full detail as the issue is dealt with by reserved matters.

Viability

The viability concerns surrounding the application has been one of the major constraints since the inception of the project. With the original decision being quashed due to the viability reports not being released to the public, we previously noted that serious questions needed to be raised at Planning Committee as to why this wholly unviable scheme is continuing or indeed needed, and also to question what is the ultimate end goal for Legal & General for the site.

We again note that the Committee Report acknowledges that the development remains unviable and gap funding for primary infrastructure would likely be required for the development to become viable. It is evidenced, via the previous Avison Young report, that the development was predicted to result in a loss of £10,405,000 before interest, or £34,508,455 if interest costs were payable at 5%.

The Committee Report continues to state that due to the length of time between the original viability report and the current date of the application, Sutton Consulting provided an addendum to the previous appraisal. They concluded that it was fair to expect that higher costs and finance charges would result in the scheme being unviable by an approximate additional £5M. The Committee Report acknowledges that the development remains unviable and gap funding for primary infrastructure would likely be required for the development to become viable.

It is maintained that the development will not be able to support the level of s106 contributions required for off-site road improvements, improvements to sustainable transport, and improvements to Porthkerry Park. The implications from the unviable nature of the development on the s106 contributions are outlined in the Committee Report, and clearly illustrate a woeful shortfall in the provision to be provided.

Ecology

Further to the previous ecological concerns raised in our correspondence from December 20022, the below ecological constraints are outlined below. Reservations remain regarding the impacts of habitat loss and hedgerow loss from the development and on the number of rare species that have been recorded on site.

Having reviewed the November Ecology addendum and site walkover assessment we consider that there are still further works required. In this regard we highlight the recent Natural Resource Wales (NRW) response, and in particular the concerns relating to the Habitat Suitability Index (HSI), assessment of the on-site pond for its suitability for Great Crested Newts (GCN).

NRW clearly state that the HSI survey is only an assessment of the potential suitability of the habitat within a pond to support GCN, and that only a further eDNA survey for GCN can update the previous eDNA survey that was undertaken. We respectfully request that this information is provided.

Moreover, we reiterate that Conditions 6 and 7 which refer to an updated Precautionary Dormouse Strategy and Biodiversity Management Strategy, however suggest that these must carefully consider the impact of the proposal on the existing habitat and extended area to ensure no harm to the abundant adjoining wildlife and ecology. We consider that this information should be provided now, having made a request for an up to date evidence base.

Summary

In summary, we continue to have strong reservations regarding the proposals, many of which have been previously raised and continue to be unaddressed by the applicant, which it is felt must be resolved before the proposals can be appropriately determined. The route of a sewer across our clients land must be addressed urgently and we must be kept informed as the issue is addressed.

Even with the additional information we consider that the proposed development continues to raise concerns regarding drainage, transport, and ecology. However, with the publication of both the RPS & Sutton and the independent Avison Young report, it is clearly evident that this scheme is wholly unviable and has considerable impacts upon the required s106 contributions levels to be provided. There are serious questions as to how such an unviable scheme can even be considered.

Yours sincerely



Simon Barry
Director

Tel: [REDACTED]

Email: [REDACTED]



Vale of Glamorgan Replacement Local Development Plan 2021-2036

Preferred Strategy

Representation Form

The Council is seeking your views on the Preferred Strategy and the supporting documentation to ensure that they are as representative of the communities of the Vale of Glamorgan and their aspirations for the future of the authority as possible.

The public consultation will run for **10 weeks** between **Wednesday 6th December 2023 and Wednesday 14th February 2024**. Full details of the consultation are available on the Council's web site at: www.valeofglamorgan.gov.uk/ldp or by scanning/using the QR code above. Representations received after this time will not be regarded as being Duly Made and will not be considered.

The Council encourages representations on the Preferred Strategy and the supporting documents to be made via our **online consultation portal** available at <https://valeofglamorgan.oc2.uk/> however representations submitted using this form will also be accepted.

Representations are welcomed in both Welsh and English and this representation form is available in other formats on request e.g. Welsh, large print.

Please use additional pages for your responses if required.

1: Contact Details

Your / Your Client's Details			Agent's Details (if relevant) *		
Title			Title	Mr	
Name	Stevens Family		Name	Simon Barry	
Organisation: (If applicable)			Organisation: (If applicable)	Boyer Planning	
Address	C/O Agent		Address	Third Floor, Park House Greyfriars Road Cardiff	
Postcode			Postcode	CF10 3AF	
Email			Email		
Telephone No.			Telephone No.	07920 801448	
Communication preference: (Please tick)	Email	<input type="checkbox"/>	Communication preference: (Please tick)	Email	<input checked="" type="checkbox"/>
	Letter	<input type="checkbox"/>		Letter	<input type="checkbox"/>
Language preference: (Please tick)	English	<input type="checkbox"/>	Language preference: (Please tick)	English	<input checked="" type="checkbox"/>
	Welsh	<input type="checkbox"/>		Welsh	<input type="checkbox"/>

*If you are acting as an Agent please also provide details of person/organisation you are representing (Note: you will need to supply a separate form for each person/organisation you are representing).

2: Your Views

QUESTION 1: KEY CHARACTERISTICS

Section 3 of the Preferred Strategy sets out the key characteristics of the Vale of Glamorgan. Do you agree that the key characteristics accurately portray the Vale of Glamorgan?

Agree

☐

Disagree

☐☐

Comments:

N/A

QUESTION 2: KEY THEMES

The Key Themes in Section 4 of the Preferred Strategy have been identified having regard to the Vale's key characteristics, the national and local policy context and stakeholder feedback and shape the core elements of the Preferred Strategy. Do you agree that the nine themes appropriately cover the issues to be addressed?

Agree

☐

Disagree

☐☐

Comments:

N/A

QUESTION 3: VISION

The Vale of Glamorgan RLDP Vision sets how the RLDP will contribute to making the Vale a healthier, connected, and sustainable place where people want to live and work over the Plan period. Do you agree with the RLDP Vision?

Agree

☐

Disagree

☐**Comments:**

Issues raised specifically in relation to Land South of Port Road, Rhose (Model Farm) and the impacts this will have on the overall Vision as outlined in the attached Representations.

QUESTION 4: STRATEGIC OBJECTIVES

The ten strategic objectives demonstrate how the RLDP will contribute towards addressing the issues identified within the Vale of Glamorgan. Do you agree with the strategic objectives? *(please state which of the objectives your comments relate to).*

Agree

☐

Disagree

☐**Comments:**

N/A

QUESTION 5: SPATIAL STRATEGY OPTIONS

The Council has considered four strategic options for where new development over the Plan period should be located. Do you agree with the 'Sustainable Transport Orientated Growth Option' as the basis of the spatial element of the Preferred Strategy?

Agree

☐

Disagree

☐**Comments:**

N/A

QUESTION 6: GROWTH OPTIONS

In preparing the Preferred Strategy, the Council have considered a range of population growth scenarios to assist in the identification of the level of housing and employment growth that will be provided over the Plan period.

a) Do you agree with the preferred housing growth option, the 'Dwelling-led 10-year scenario' which sets out a housing requirement of 7,890 dwellings over the plan period (526 dwellings per annum)?

Agree

☐

Disagree

☐**Comments:**

N/A

b) Do you agree with the Council's recommended employment land provision of 67.8ha over the Plan period?

Agree

☐

Disagree

☐**Comments:**

Significant concern is raised in relation to the roll over employment allocation 'Land South of Port Road, Rhoose (Model Farm) under Strategic Policy SP13: Employment Growth as deliverability is not sufficiently demonstrated. There are significant issues raised in the attached Representations

QUESTION 7: PREFERRED STRATEGY

Section 6 sets out the RLDP Preferred Strategy for the Vale of Glamorgan, comprising six key elements and includes the Preferred Strategy Key Diagram. Do you agree that the Preferred Strategy is appropriate for the Vale of Glamorgan?

Agree

☐

Disagree

☐**Comments:**

N/A

QUESTION 8: KEY SITES

The five key residential led sites identified in the Preferred Strategy will help meet the housing requirement over the Plan period. Do you agree with the five key sites identified? *(please state which key site your comments relate to).*

Agree

☐

Disagree

☐**Comments:**

N/A

QUESTION 9: STRATEGIC POLICIES

The strategic policies in the Preferred Strategy form the framework for implementing and delivering the identified objectives. Do you agree with the strategic policies? *(please state which strategic policy your comments relate to)*

Agree

☐

Disagree

☐**Comments:**

Significant concern is raised in relation to the roll over allocation for Land South of Port Road, Rhoose (Model Farm) identified as part of Strategic Policy SP13: Employment Growth. a number of significant issues are raised as detailed within the attached Representations which clearly demonstrate the non delivery of the site.

QUESTION 10: FURTHER COMMENTS

Do you have any additional comments that you would wish to make of the Preferred Strategy or the supporting documentation?

Agree

☐

Disagree

☐**Comments:**

Significant concern raised in relation to Land South of Port Road, Rhoose (Model Farm) - detailed justification as to why the site should not be maintained as a roll over allocation are provided within the attached Representations.

QUESTION 11: WELSH LANGUAGE

We would like to know your views on the effects that these proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Agree

☐

Disagree

☐**Comments:**

N/A

ABOUT YOU

The following questions will help us ensure data is representative of population of the authority and help us to target underrepresented groups. **You are not required to complete this section if you would prefer not to.**

Are you...?		What is your age group?	
Male	<input type="checkbox"/>	Under 16	<input type="checkbox"/>
Female	<input type="checkbox"/>	16 – 24	<input type="checkbox"/>
Other	<input type="checkbox"/>	25 – 44	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>	45 – 64	<input type="checkbox"/>
What is your ethnic group?		Aged 65 or over	<input type="checkbox"/>
White	<input type="checkbox"/>	Prefer not to say	<input type="checkbox"/>
Mixed	<input type="checkbox"/>	What is your main language?	
Asian	<input type="checkbox"/>	Welsh	<input type="checkbox"/>
Black	<input type="checkbox"/>	English	<input type="checkbox"/>
Chinese	<input type="checkbox"/>	Bilingual	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>	Prefer not to say	<input type="checkbox"/>
Other ethnic group (<i>please state</i>)	<input type="checkbox"/>	Other (including British Sign Language, large print etc.) (<i>please state</i>)	<input type="checkbox"/>
What is your religion or belief?		Do you have a disability?	
Christian (all denominations)	<input type="checkbox"/>	Yes	<input type="checkbox"/>
Buddhist	<input type="checkbox"/>	No	<input type="checkbox"/>
Hindu	<input type="checkbox"/>	Prefer not to say	<input type="checkbox"/>
Jewish	<input type="checkbox"/>	What is your legal marital or same sex civil partnership status?	
Muslim	<input type="checkbox"/>	Single	<input type="checkbox"/>
Sikh	<input type="checkbox"/>	Living with partner	<input type="checkbox"/>
Humanist	<input type="checkbox"/>	Married	<input type="checkbox"/>
No religion or belief	<input type="checkbox"/>	Separated	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>	Divorced	<input type="checkbox"/>
Any other religion or belief (<i>please state</i>)	<input type="checkbox"/>	Widowed	<input type="checkbox"/>
		Civil Partnership	<input type="checkbox"/>
What is your sexual orientation?		Dissolved Civil Partnership	<input type="checkbox"/>
Bisexual	<input type="checkbox"/>	Surviving Civil Partnership	<input type="checkbox"/>
Gay	<input type="checkbox"/>	Prefer not to say	<input type="checkbox"/>
Lesbian	<input type="checkbox"/>		
Heterosexual	<input type="checkbox"/>		
Prefer not to say	<input type="checkbox"/>		
Other (<i>please state</i>)	<input type="checkbox"/>		

IMPORTANT INFORMATION

Completed Representation Forms and any supporting information should be returned to the LDP Team:

BY EMAIL – ldp@valeofglamorgan.gov.uk

ONLINE – By completing the electronic form at <https://valeofglamorgan.oc2.uk/>

BY POST – LDP Team, Vale of Glamorgan Council, Dock Office, Barry Docks, Barry, CF63 4RT

If you require any further information or have any questions, please contact the LDP Team on 01446 704681 or e mail ldp@valeofglamorgan.gov.uk

Submissions are welcome in either Welsh or English and this representation form is available in other formats on request e.g. Welsh, large print.

How we will use your information

On 25th May 2018 the General Data Protection Regulation (GDPR) came into force, placing new restrictions on how organisations can hold and use your personal data and defining your rights with regard to that data. Any personal information disclosed to us will be processed in accordance with our Privacy Notice. A paper copy of the Council's Privacy Notice can be provided upon request or can be viewed at: https://www.valeofglamorgan.gov.uk/en/our_council/Website-Privacy-Notice.aspx

Data Protection Notice – Please note that all comments received cannot be treated as confidential and once duly reported and considered, will be available for public inspection (with your personal details redacted). We will also hold your contact details on our Replacement LDP Consultation Database for the duration of the RLDP preparation process which will keep you informed of future updates. If you would like to be removed from the database at any time and no longer wish to receive correspondence from the Council on the RLDP, then this can be requested in writing. However, any information provided will be stored safely and retained in accordance with Vale of Glamorgan Council's data retention policy unless it needs to be retained under another lawful basis.

**REPRESENTATION FORMS SHOULD BE RETURNED BY NO LATER THAN
23:59 ON WEDNESDAY 14TH FEBRUARY 2024**

REPRESENTATIONS RECEIVED AFTER THIS TIME WILL NOT BE CONSIDERED

Signed: Simon Barry

Date: 13/02/2024

Date: 13^h February 2024
Our Ref: 19.8060

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Submitted Via email: ldp@valeofglamorgan.gov.uk

Dear LDP Team,

**Vale of Glamorgan Replacement Local Development Plan 2021-2036
Preferred Strategy Representations on behalf of The Stevens Family**

Boyer have prepared and submitted the following representation on behalf of The Stevens Family in response to the current Vale of Glamorgan Replacement Local Development Plan (RLDP) 2021-2036 Preferred Strategy Consultation.

A summary of our main representations are as follows:

- Significant concern is raised regarding the 'rollover' Land South of Port Road, Rhose (Model Farm) Employment Allocation (as part of SP13: Employment Growth) as deliverability is not sufficiently demonstrated by the Council and Representors. Currently there is significant ambiguity regarding the actual delivery, contrary to the Welsh Government's Development Plans Manual (DPM) Edition 3 requirements.
- The proposed Model Farm allocation is currently subject to an Appeal, having had the previous planning applications quashed by the High Court.
- It is inappropriate to allocate an employment site which has been proven to be unviable through detailed independent assessment which predicted a loss of £10,405,000 before interest, or £34,508,455M if interest costs were payable at 5%.
- Supporting evidence confirms that whilst the Representors suggest they remain committed, there is a huge contradiction when they also suggest that they are taking a long term view about when the scheme might come forward.
- Serious questions are raised in terms of the employment demand and delivery for a 161,834 sqm floorspace development considering the current available space, uptake over the last decade and more attractive alternatives.
- There are a number of technical constraints which have not been addressed sufficiently via the planning application process, and these simply cannot be left to roll forward to the Local Development Plan.



As you will be aware previous representations were submitted on behalf of The Stevens Family of The Old Rectory between 2019 and 2022 in response to the Quashed outline application submitted on behalf of Legal & General in relation to the proposed Parc Busnes Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhose (Ref: 2019/00871/OUT).

It is in this context upon which these representations, outlined below, are specifically made in relation to the proposed Preferred Strategy and the proposed identification of the 44.75ha (net) Land South of Port Road, Rhose (Model Farm) as a rollover Major Employment Allocation within Policy SP13: Employment Growth.

LDP 'Rollover' Allocations

The Stevens Family understand that one of the main functions of the RLDP is to ensure that there is sufficient land available within the Vale of Glamorgan to deliver the required future employment requirements over the lifetime of the Plan. It is noted that the RLDP makes provision for 168 net hectares of employment land for B1 (Office and Light Industry), B2 (General Industries) and B8 (Distribution and Storage) employment uses which has the potential to support an additional 5,338 jobs over the plan period. In principle there is no dispute on this provision.

Where the main concern arises, is the makeup of the employment allocations, and in particular Model Farm.

The Council has assessed the existing employment allocations in the current LDP which have not come forward and determined that Land South of Port Road, Rhose (Model Farm) maintains its suitability for allocation in the RLDP. However, The Stevens Family maintain some serious concerns over the deliverability of the rollover allocation, for reasons discussed below.

Welsh Government's Development Plans Manual (DPM) Edition 3 specifies that *"Allocations rolled forward from a previous plan will require careful justification for inclusion in a revised plan, aligning with PPW. There will need to be a substantial change in circumstances to demonstrate sites can be delivered and justify being included again. Clear evidence will be required that such sites can be **delivered**"* (Boyer emphasis). *The sites should be subject to the same candidate site process requirements as new sites i.e. they must be demonstrated to be sustainable and deliverable"*. Given that these factors are clearly set out within the latest version of the DPM reinforces their importance for the Welsh Government and the on-going need for Local Planning Authority's to demonstrate deliverability.

Looking at the technical evidence base there is nothing to indicate that the circumstances surrounding the Model Farm proposed allocation have significantly changed with regard to the lack of employment delivery and the site is no further forward than previously.

Paragraph 6.139 of the Preferred Strategy outlines that *'Land south of Port Road (Model Farm) Rhose is currently subject to an appeal for non-determination of an outline planning application for a B1, B2, B8 Business. **If the appeal is allowed**'* (Boyer emphasis), *the site is anticipated to deliver 1.7 million sq. ft of Class B1, B2 and B8 offices, light industrial and warehousing and distribution units, alongside car parking, landscaping, drainage infrastructure and biodiversity enhancement works which include land for expansion of Porthkerry Country Park to the south (Figure 16).*

Clearly, the Quashed decision notice and the subsequent appeal are important factors in the delivery of the employment allocation. The Council, in their own words, note that the outcome of the appeal impacts the anticipated delivery and therefore no decisions on the sites acceptability nor allocation should be taken forward until the appeal is determined. This may not fit with the Councils timeframe for the RLDP, however the level of ambiguity on the actual delivery is so significant as to impact on the Councils ability to deliver their employment land and jobs over the plan period.

The distinct lack of actual timeframes and delivery is further outlined in the supporting Employment Land Study (March 2023 BP12) document. Paragraph 5.40 outlines that *'Model Farm is an employment proposal for Legal and General owned land in the east of the Land adjacent to Cardiff Airport and south of Port Road, Rhoose. A Hybrid planning application (App. No.2019/00871/OUT) was submitted, in outline, for the demolition of existing buildings and erection of 44.75ha Class B1/B2/B8 Business Park, car parking, landscaping, drainage infrastructure, ecological mitigation and ancillary works and, in full, and a change of use from agricultural land to country park. This proposed the development of B1, B2, B8 premises along the southern side of Port Road and environmental mitigation/country park to the south. An approval of the application was quashed by the High Court in October 2021, following concerns being raised with issues including the publicity of viability evidence. The application remains under review. Agents for Legal and General have confirmed that the investor remains **committed to a development here but is taking a long term view about when the scheme might come forward** (Boyer emphasis). It still sees strong potential here for a high-quality business cluster reinforced by Cardiff and Vale College's investment nearby. It has stated that there is a development partner for the project.*

The lack of evidence for the delivery is further illustrated in the Candidate Site Assessment at Preferred Strategy Stage (October 2023 BP 18) background paper in regard to Candidate Site 551 – Model Farm. The RAG Analysis system to assess sites against the Preferred Strategy (Appendix 2 of BP18) highlights that developer interest is coloured Amber which means that the Council themselves consider that the site accords with the strategy but there are some concerns around deliverability that would need to be addressed.

Evidently, there is a distinct lack of surety on the deliverability of the site, both from the current appeal and the promoters in terms of timeframe. Furthermore, what is conveniently ignored in all of the RLDP assessment is the unviable nature of the proposed allocation.

Viability/Deliverability

The Stevens Family have previously provided detailed comments on this issue in relation the planning application (Ref: 2019/00871/OUT), however consider that the matter is of significant relevance to the proposed rollover allocation at Model Farm through the RLDP.

As you will be aware there was a published RPS & Sutton Viability as well as the Avison Young independent review provided as part of the application. Both documents should form part of the evidence base for the RLDP as it is clear that the proposed rollover allocation is unviable.

Development viability is a material consideration in allocating sites as it evidences the deliverability as required by the DPM, however the conclusions of the independent Avison Young report is significant in that they show a loss of £10,400,000 (assuming no interest charges) and £34,500,000 (assuming

interest is charged at 5%), which demonstrates that the scheme is not viable, and that without Government/public sector intervention by way of gap funding it is unlikely ever to be delivered.

Furthermore, the allocation development would not be able to support the level of s106 contributions required for off-site road improvements, improvements to sustainable transport, and improvements to Porthkerry Park. The level of reductions within the standard contributions normally sought is both extensive and excessive (in excess of £3,700,000 for sustainable transport alone).

It is also important to highlight that the viability assessments question how attractive the development would be to any potential market, which has implications on its future deliverability. Within the Avison Young Report it is noted that the proposed development is likely to be materially less attractive to tenants than numerous existing sites in S.E Wales, most of which enjoy close proximity to the M4, which is a key consideration.

Moreover, it is noted that the Avison Young report assumes an annual take-up of 50,000 sq ft GIA of manufacturing/warehouse space per annum and a take-up of 8,500 sq ft NIA of office space per annum. However, it is stated that although the annual take-up across other more attractive major Business Parks typically range from 15,000 – 50,000 sq ft per annum, they have applied an annual take-up rate at the top end of this range, which was considered to be optimistic. The conclusion, in Avison Young's opinion, was that such take up rates are highly questionable and if not achieved, will again mean that the scheme is unviable.

Consequently the demand, and indeed the appetite to construct such a development is highly questionable. Serious concern is raised as to why this information is not taken into consideration in Employment Land Study (March 2023 BP12) document as there is clear evidence of the unviable nature of the allocation.

The Stevens Family have considerable business/commercial experience and seriously question why such an unviable and undeliverable allocation would be maintained, unless it was for a future alternative use.

Employment Need

Having reviewed the Employment Land Study (March 2023 BP12), the evidenced need for such a large employment allocation is further questioned. It is understood from the Study that over the last decade, 145 industrial deals have been recorded in the Vale of Glamorgan, within which a total of 83,950 sqm of floorspace has been transacted. This equates to only half of the 161,834 sqm proposed as part of the Model Farm allocation and raises the question as to whether the demand for such an amount is sustainable. At this rate it would be 20+ years until the proposed floorspace would be let, and this is if it was the only site available. This, also combined with the clearly unviable nature of the scheme, is of significant concern.

It is important to highlight that over the decade there was only one unit transacted of more than 5,000 sqm in the timeframe. Given the parameters as set out in the Outline application for the plot sizes it is noted that some are significantly more than 5,000 sqm (including 11,200 sqm, 14,000 sqm and 16,150 sqm). Again, the demand for such large-scale units is questioned given the distinct lack of transactions over a 10 year period.

Whilst the Study does outline that there is an absence of options in excess of 5,000 sqm, the transaction evidence suggests that these are only rarely required in the Vale. Again, the need and delivery of the allocation is a significant concern.

The demand for the units is further questioned given that in 2022, a total of 12,766 sqm of industrial floorspace was being marketed within Vale of Glamorgan and comprised of 16 individual premises. Whilst the marketed floor space is less than 10% of that proposed, it is important to note that an average take-up per year over the last decade, equates to 8,395 sqm/year, meaning it would take almost 20 years to let the units (again if this was the only site).

In the surrounding context, the Cardiff Capital Region (CCR) £36 million investment at Aberthaw Power Station, brings into doubt the desirability of the Model Farm. The Study states that CCR have received a range of suggestions from business for uses on the site and is ultimately a more attractive opportunity for businesses and operations than Model Farm. Whilst it is acknowledged that there are on going works required, the clear investment is evident at Aberthaw, which is in stark contrast to Model Farm and L&G's stance of a very long term view about when the scheme might come forward.

Technical Constraints

There are a number of technical constraints which have been highlighted in relation to the planning application, but which remain relevant to the allocation.

Drainage

Drainage remains a significant concern with the proposed allocation and given that it is unresolved from the application, questions are raised as to how the site can be brought forward as a rollover allocation.

As noted previously Dwr Cymru Welsh Water (DCWW) initially objected to the proposals and raised concerns over several points. It is still maintained that there is insufficient capacity within existing infrastructure to accommodate foul flows from the development hence a suitable point of communication for water supply has not been identified. This information needs clarifying to allow any proposed continued allocation.

As part of the evidence base and to provide deliverability then a Hydraulic Modelling Assessment (HMA) should be undertaken as this is a major constraint on a large scheme where capacity is essential to the proposed business.

Notwithstanding the issues raised above concerning capacity, we again reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership of The Stevens Family, including the garden of their private residence. Moreover, the route of the proposed foul sewer also crosses through the SINC's and areas of Ancient Woodland previously identified in a number of places.

Clearly this is wholly unacceptable and would have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species if the allocation is rolled forward. Whilst this has been highlighted on numerous occasions, it appears no further evidence has been requested to take account of this.

Transport

Numerous representations have previously been made relating to the proposed development's impact on transport and these remain valid for the rollover allocation and require further update to the evidence base.

Previously, The Stevens Family noted that within the planning application Transport Assessment it was highlighted that the site is '*notably reliant upon infrastructure improvement in the locality, in order to promote travel by means other than private car*', yet it is indicated that the development would fail to deliver the footway and cycle way itself. Furthermore, that due to the viability, the Authority would not be seeking a financial contribution toward sustainable transport, which would equate to in excess of £3,700,000. Rather it is considered that a transfer of a 10m strip of land to the Council across the site frontage with Port Road via the s106 Legal Agreement would be acceptable to compensate for the fact that the development would fail to deliver any sustainable links itself. Clearly this needs much further consideration as an evidence base for any allocation of the land.

Further consideration is also needed to fully explain how the land transfer would equate anywhere near to the required financial contribution the development generates and if this is sufficient to adhere to the Sustainable Transport requirements set out in Future Wales, Llwybr Newydd and Planning Policy Wales.

Ecology

Reservations remain regarding the impacts of habitat loss and hedgerow loss from the proposed rollover allocation and on the number of rare species that have been recorded on site. In fact, the ecological information previously provided to the planning application, on behalf of The Stevens Family, noted that in their review it was highly suggestive of a wider presence of protected biodiversity within both the area immediately adjacent to the proposed development, as well as the proposed allocation site itself.

Given the significance of the ecological constraints then it is considered that there are still further works required to evidence the allocation of the site. In particular this relates to the concerns around the Habitat Suitability Index (HSI), assessment of the on-site pond for its suitability for Great Crested Newts (GCN) as well as Dormice.

It is considered that this information should be provided now as part of the allocation process as it has significant implications.

Candidate Site Assessment at Preferred Strategy Stage (October 2023 BP 18)

As highlighted, the proposed Candidate Site 551 (Model Farm) has undertaken a RAG Analysis system to assess sites against the Preferred Strategy (Appendix 2 of BP18). Whilst it has already been noted that the site scored Amber in terms of deliverability (meaning that the Council themselves consider that the site raises concerns around deliverability that would need to be addressed), there are a number of other concerns raised where there is a distinct lack of evidence for the delivery of the site.

In particular, it is illustrated that the site scored Red (does not accord with the strategy) in regard to the direct impact on surrounding SINCs and Local Nature Reserves and is a significant factor that needs addressing to allow any rollover allocation.

Furthermore, in terms of the Amber scores, the following are highlighted as raising concern for the Authority and which need to be addressed:

- Agricultural Land
- Mineral Resource
- Green Wedge Designation
- Special Landscape Areas
- Contaminated Land
- Existing Physical Site Constraints
- Historic Environment

Given the significant amount of Amber scores, it is clearly demonstrated that the Model Farm site has a number of issues which need to be fully assessed and with no apparent solutions or updates, then The Stevens Family seriously question the validity of the proposed rollover allocation at Model Farm.

Summary

In summary, The Stevens Family have strong reservations regarding the proposed rollover allocation at Model Farm under Policy SP13, many of which have been previously raised and continue to be unaddressed by the evidence base underpinning the Preferred Strategy.

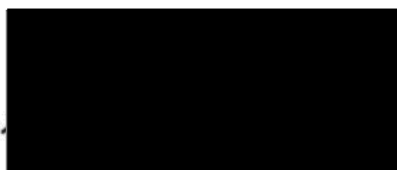
It has been demonstrated that there are significant deliverability concerns, not only with the evidenced lack of viability (as independently assessed), but also demand. Furthermore, there is ambiguity on the current appeal as well as the Representors own desire to develop the site, with it indicated that it is a longer term aspiration.

The Stevens Family consider that the rollover allocation of the site is contrary to the Welsh Government's Development Plans Manual (DPM) Edition 3 and does not substantially evidence any deliverability. It is considered that the Model Farm (Candidate 551) Employment allocation should not be rolled forward into the Replacement LDP, and rather it would be more appropriate to de-allocate for sites with much more certainty.

Moreover, there still remains concerns regarding drainage, transport, and ecology and the distinct lack of any evidence base update to prove otherwise. This is supported by the Councils own assessment as part of the Candidate Site Assessment at Preferred Strategy Stage (October 2023 BP 18) background paper which maintained an Amber score for a number of issues which, by the Councils own admission, identifies concerns around deliverability that would need to be addressed.

Overall, there remains serious questions as to how such an unviable scheme can even be considered for a rollover allocation.

Yours sincerely



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Date 09/12/2024
Our Ref: 19.8060/SB

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Dear Inspector,

Town and Country Planning Act (As Amended) – S78 Appeal

LPA Reference: 2019/00871/OUT

PEDW Reference: CAS-02641-G8G7M5

Land at Model Farm, Port Road, Rhoose, CF62 3BT

Further to numerous observations submitted on behalf of Mr and Mrs Stevens (The Stevens Family) of The Old Rectory relating to the outline application submitted on behalf of Legal & General in relation to the proposed Parc Business Porth Cymru (PBPC) Business Park on land at Model Farm, Port Road, Rhoose (Ref: 2019/00871/OUT), Boyer have been instructed to provide written comments in relation to the current submitted Appeal Ref: CAS-02641-G8G7M5.

This correspondence does not seek to repeat the overall comments submitted, rather addresses points where there has been a change in national policy, or where further information has been submitted as part of the Appeal process.

Planning Policy Wales (12th Edition – 2024)

The Inspector will be aware of the recent publication of Planning Policy Wales (12th Edition 2024), and that this national planning document has been updated since the original application and Planning Committees, and also following the submission of the Appeal.

The Stevens Family draw attention to the fact that Planning Policy Wales was updated to address the nature emergency reflected in a revised Chapter 6 'Distinctive and Natural Placemaking and Well-Being'. These changes to national policy came into immediate effect and impact on all planning applications and Appeals.

The main policy changes in Chapter 6 relate to:

- Green Infrastructure
- Net Benefit for Biodiversity and the Step Wise Approach
- Protection for Sites of Special Scientific Interest
- Trees and Woodlands



These are of significant importance to the current Appeal and the correct due diligence is required to accord with the updates of Planning Policy Wales.

One key change is the requirement for all planning applications to be submitted with a 'Green Infrastructure Statement' (paragraph 6.2.5). The Green Infrastructure statement will be an effective way of demonstrating positive multi-functional outcomes which are appropriate to the site in question and must be used for demonstrating how the 'Step-wise Approach' (Paragraph 6.4.21) has been applied.

It is noted that a Green Infrastructure Statement has been provided as part of the Appeal documentation by RPS, however this has not been assessed by the Authority as compliant. It is noted that this work will be undertaken through the Appeal process, however given the importance of Chapter 6 and the impact that the proposed development will have on both green infrastructure and ecology then The Stevens Family consider this needs to be a priority.

From review of the Green Infrastructure Statement provided, and given the scale and impact the proposed development has, then The Stevens Family consider it frustrating that the detailed green infrastructure proposals and the appropriate delivery and aftercare are being pushed further along the determination process. It is considered that a Detailed Biodiversity Management Strategy and comprehensive Green Infrastructure Statement should be provided now.

This is in the context of the updated Chapter 6 and in particular paragraph 6.4.5 which requires a net *benefit for biodiversity and that development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long-term, measurable and demonstrable benefit, primarily on or immediately adjacent to the site.*

Moreover, paragraph 6.4.39 outlines that *Planning authorities must protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial green infrastructure function. Planning authorities should consider the importance of trees and woodland, particularly native woodland and valued trees, and should have regard to local authority tree strategies.*

The updated national policy also strengthens the protection of all trees linking back to the Step-Wise Approach and outlining the:

- Functional importance of trees, woodlands, groups of trees and areas of woodland restated;
- Ecosystem resilience function of native trees and hedgerows outlined;
- Recognition given to the importance of trees within the countryside;
- Ancient woodland, semi-natural woodlands, individual ancient, veteran and heritage trees and ancient hedgerows identified as irreplaceable natural resources, with significant landscape, biodiversity and cultural value.

This is further supported by the:

- New requirement for the planting of new trees, hedgerows, groups of trees, areas of woodland as part of new development;
- New policy requirement on the adoption of canopy cover targets for local planning authorities;
- Retention of trees to be identified within all planning applications (significant trees to be retained & protected);

- 'Service lines' to the site should be included within the application (identifying tree loss);
- Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined public benefits;
- Compensation planting ratio for trees lost set at 3 for 1, equivalent to the quality, environmental and ecological importance of the tree(s) lost - this must be preferably onsite or immediately adjacent to the site; and
- Higher compensation planting ratios set for woodland and shelterbelt areas.

In relation to Chapter 6 and the above protection of trees and ancient woodland, The Stevens Family consider that the current proposals are found to be lacking in meeting the requirements of Planning Policy Wales. This is also true in regard to the impacts that the proposed drainage scheme will have on the number of TPO trees within the curtilage of their property and also the ancient woodland.

With regard to the impacts upon existing TPOs, The Stevens Family have grave concern for the direct impact upon the Pedunculate Oak (TPO Ref: 2022-01-T6) located at the confluence of Bullhouse Brook and Whitelands Brook. Further concern is also raised in relation to the 2 No. London Plane (TPO Ref: 2022-01-T3 & 2022-01-T4), as well as the Horse Chestnut (TPO Ref: 2022-01-T2). Whilst they are on private land the drainage works required in the wider setting has the potential to significantly undermine their protection. The trees are positioned on the banks of the brooks and concern is raised that following the change in such a large area of land from agricultural to built development would cause additional surface water drainage pressure and which would erode the habitat within the Root Protection Zone, upon which the trees are currently thriving.

Drainage

Having reviewed the Appeal submission, The Stevens Family again reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in their private ownership including the garden of their private residence. This is of significant concern not only for the landownership but also the impacts upon wildlife, landscape and trees, particularly in the context of Planning Policy Wales.

For the Inspector's convenience, Welsh Water (DCWW) initially objected to the proposals for the following reasons:

- Site layout should take account of the location of the sewer;
- It is unlikely that sufficient capacity exists to accommodate foul flows generated by the development; and
- The proposed development is within an area where there are water supply problems, for which no improvements are currently planned.

The Stevens Family are aware of the ongoing discussion with DCWW and that the previous Committee Reports outlined several conditions, including for the submission of a Hydraulic Modelling Assessment (HMA) prior to the submission of any reserved matters applications. However, it is important to highlight that this is contrary to DCWW's preference for such assessments to be provided up front as part of an application submission, setting out that development should not be supported where there are no known solutions. It is again frustrating that no further works have been undertaken as part of the Appeal process by the applicant.

Notwithstanding the issues raised above concerning capacity, it is reiterated that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership, including the garden of The Stevens Family's private residence. Moreover, the route of the proposed foul sewer also crosses through the SINC's and areas of Ancient Woodland previously identified in a number of places.

In the context of updated national guidance in Planning Policy Wales (12th Edition 2024) and in particular Chapter 6 this would clearly have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species. Although this has been highlighted on numerous occasions, no revisions have been made to take account of this and it is not reflected in the submitted Green Infrastructure Statement. This is considered as a significant omission on the applicant's part and needs to be rectified for policy compliance. Without so the proposed drainage scheme is contrary to Planning Policy Wales and raises grave concerns.

The farcical nature of the proposed foul drainage route is also highlighted in DCWW correspondence to The Stevens Family (dated Nov 2021) which states that '*Our initial assessment of the route identifies a host of physical and ecological constraints which would render the route unviable, therefore not able to be adopted by us*'.

As detailed in previous correspondence and within the Committee Reports, DCWW and Natural Resource Wales both maintain that the local drainage infrastructure is considered inadequate to accommodate the proposed capacity of this development.

Noting the lack of plans to improve capacity and risk of overwhelming the public sewerage, DCWW concerns remain where it is '*unlikely that sufficient capacity exists to accommodate the development without causing detriment to the existing services*' that includes the Porthkerry Sewerage Pumping Station adjacent to The Old Rectory. Comments raised by DCWW further highlight the failure to identify a suitable point of communication for the proposed development site to be served by adequate water supply.

During the Authority's determination process the Committee Reports outlined proposed Conditions and it is acknowledged that Condition 8c sought to address the impact of proposed excavation works for the drainage and SuDS proposal on existing trees. However, The Stevens Family continue to raise concern regarding the proximity of the proposed sewer works and risk of direct damage to the Root Protection Area of several old trees located, and the aforementioned TPOs, within the curtilage of The Old Rectory.

Given the significance Chapter 6 now places on trees and woodland then it is considered that the direct impact upon the trees and ancient woodland, within and adjoining The Stevens Family land, should be assessed upfront and is no longer appropriate to be addressed via Condition. This is particularly important as additional surface water drainage carried by the existing streams that may arise from a reduction of permeability of land threaten several of the old venerable oaks as well as the following TPOs: Pedunculate Oak (TPO Ref: 2022-01-T6), 2 No. London Plane (TPO Ref: 2022-01-T3 & 2022-01-T4), as well as the Horse Chestnut (TPO Ref: 2022-01-T2). These protected trees are located either at the confluence of Bullhouse Brook and Whitelands Brook, or within their banks and concern is raised that if inadequate, the proposed drainage works will have a direct impact on their Root Protection and habitat.

The previous Condition 11 related to whether the scheme can demonstrate that the existing water supply network can suitably accommodate the proposed development site. Condition 12 relates to the proposed SuDS for surface water disposal, where the proposed designated SuDS attenuation areas surrounds the boundary of our client's land. The Stevens Family continue to have reservations regarding the impact any proposed SuDS will have on the TPO's within their curtilage of The Old Rectory and the surrounding ancient woodland. These concerns are relevant to the recent Chapter 6 of Planning Policy Wales.

No doubt the Inspector is aware that where plans seek to go through and surround our client's land, The Stevens Family must be made aware and kept informed in full detail.

Viability/Deliverability

The Stevens Family have previously provided detailed comments on this issue in relation the planning application (Ref: 2019/00871/OUT), however they consider that the matter is of significant relevance to the current Appeal.

The Inspector will be aware there was a published RPS & Sutton Viability as well as the Avison Young independent review provided as part of the application. Both documents form part of the evidence base for the Appeal and it is clear that the proposed development is unviable. It is noted that the original Avison Young assessments are now also historic with dates from 2020 and 2022.

Those original reports highlight that development viability is a material consideration, however the conclusions of the independent Avison Young report are significant in that they show a loss of £10,400,000 (assuming no interest charges) and £34,500,000 (assuming interest is charged at 5%), which demonstrates that the scheme is not only unviable, but that without Government/public sector intervention by way of gap funding, it is unlikely ever to be delivered.

Furthermore, the proposed development would not be able to support the level of s106 contributions required for off-site road improvements, improvements to sustainable transport, and improvements to Porthkerry Park. The level of reductions within the standard contributions normally sought is both extensive and excessive (in excess of £3,700,000 for sustainable transport alone).

It is also important to highlight that the viability assessments question how attractive the development would be to any potential market, which has implications on its future deliverability. Within the Avison Young Report it is noted that the proposed development is likely to be materially less attractive to tenants than numerous existing sites in S.E Wales, most of which enjoy close proximity to the M4, which is a key consideration.

Moreover, it is noted that the Avison Young report assumes an annual take-up of 50,000 sq ft GIA of manufacturing/warehouse space per annum and a take-up of 8,500 sq ft NIA of office space per annum. However, it is stated that although the annual take-up across other more attractive major Business Parks typically range from 15,000 – 50,000 sq ft per annum, they have applied an annual take-up rate at the top end of this range, which was considered to be optimistic. The conclusion, in Avison Young's opinion, was that such take up rates are highly questionable and if not achieved will further diminish the schemes deliverability and viability.

The Stevens Family consider that given the length of time since the viability information was professionally reviewed then the situation is likely to have worsened. In this regard, they are aware of

the most recently submitted RPS Updated Delivery Report (November 2024), which despite reassessment describes that the proposed scheme would have a significant loss.

It is noted at paragraph 5.4.8 of the Report that again assuming an eight-year marketing period the development would result in a significant *'loss of - £6.86 million based upon total costs in the order of £183.29 million'*. Furthermore, the appraisal did not include any allowance for planning obligations which would increase the loss and also does not appear to provide any figure for the loss assuming interest is charged.

It is also significant to note that the most recent RPS Report is yet to have any independent review to provide a balanced assessment. As with the previous it is anticipated that the actual loss will be even higher than suggested. The Stevens Family consider this an important stage that needs to be completed and published prior to the Inquiry.

Overall, it is maintained that the demand, and indeed the appetite to construct such a development is highly questionable. Moreover, again it is noted that The Stevens Family have considerable business/commercial experience and seriously question why such an unviable and undeliverable proposal would be maintained, unless it was for a future alternative use.

Employment Need

The Inspector may be aware of the current ongoing Replacement Local Development Plan (RLDP) Review being undertaken by the Local Authority. Whilst The Stevens Family completely appreciate that this Appeal is not specifically related directly to the RLDP, there is relevant information within the evidence base.

The Vale of Glamorgan Employment Land Study (March 2023 BP12 – RLDP [https://valeofglamorgan.oc2.uk/docfiles/26/BP12%20Employment%20Land%20Study%20\(BE%20Group\).pdf](https://valeofglamorgan.oc2.uk/docfiles/26/BP12%20Employment%20Land%20Study%20(BE%20Group).pdf)), questions the need for such a large employment development. It is understood from the Study that over the last decade, 145 industrial deals have been recorded in the Vale of Glamorgan, within which a total of 83,950 sqm of floorspace has been transacted. This equates to only half of the 161,834 sqm proposed as part of the Model Farm and raises the question as to whether the demand for such an amount is sustainable. At this rate it would be 20+ years until the proposed floorspace would be let, and this is if it was the only site available. This, also combined with the clearly unviable nature of the scheme, is of significant concern.

It is important to highlight that over the decade there was only one unit transacted of more than 5,000 sqm in the timeframe. Given the parameters as set out in the Outline application for the plot sizes it is noted that some are significantly more than 5,000 sqm (including 11,200 sqm, 14,000 sqm and 16,150 sqm). Again, the demand for such large-scale units is questioned given the distinct lack of transactions over a 10 year period.

Whilst the Study does outline that there is an absence of options in excess of 5,000 sqm, the transaction evidence suggests that these are only rarely required in the Vale. Again, the need and delivery of the allocation is a significant concern.

The demand for the units is further questioned given that in 2022, a total of 12,766 sqm of industrial floorspace was being marketed within Vale of Glamorgan and comprised of 16 individual premises. Whilst the marketed floor space is less than 10% of that proposed, it is important to note that an

average take-up per year over the last decade, equates to 8,395 sqm/year, meaning it would take almost 20 years to let the units (again if this was the only site).

In the surrounding context, the updated RPS Delivery Report (November 2024) looked at the wider Cardiff Capital Region (CCR) and noted that there is a lack of development of new Grade A accommodation in both the office and industrial markets. Whilst in the wider context this is correct, it is noted about the acquisition of the Aberthaw coal fired power station site by CCR City Deal. The Report suggests *that this will bring a renewed public sector focus to this part of the Vale of Glamorgan which can only benefit the subject site* (paragraph 4.1.5).

However, The Stevens Family suggest that the report does not consider that the £36 million investment at Aberthaw Power Station, would in fact bring into doubt the desirability of the proposed Model Farm development. Currently CCR have received a range of suggestions from business for uses on the site and is ultimately a more attractive opportunity for businesses and operations than the proposed Model Farm development. Whilst it is acknowledged that there are ongoing works required, the clear investment is evident at Aberthaw, which is in stark contrast to Model Farm and L&G's stance of a very long term view about when the scheme might, if ever, come forward.

Technical Constraints

There are a number of technical constraints which have been highlighted in relation to the planning application, but which remain relevant to the Appeal.

Drainage

Without repetition on the information provided above, drainage remains a significant concern with the Appeal and given that it is unresolved from the application, questions are raised as to how the site can be brought forward.

As noted previously Dwr Cymru Welsh Water (DCWW) initially objected to the proposals and raised concerns over several points. It is still maintained that there is insufficient capacity within existing infrastructure to accommodate foul flows from the development hence a suitable point of communication for water supply has not been identified. This information needs clarifying to allow any proposed continued allocation.

As part of the evidence base and to provide deliverability then a Hydraulic Modelling Assessment (HMA) should be undertaken as this is a major constraint on a large scheme where capacity is essential to the proposed business.

Notwithstanding the issues raised above concerning capacity, we again reiterate that the proposed foul sewer to provide foul drainage for the site crosses the land in the private ownership of The Stevens Family, including the garden of their private residence. Moreover, the route of the proposed foul sewer also crosses through the SINCs and areas of Ancient Woodland previously identified in a number of places which would be contract to Planning Policy Wales, in particular Chapter 6.

Concern is also raised regarding the impact that the proposed drainage will have on TPOs within The Stevens Family curtilage, including, Pedunculate Oak (TPO Ref: 2022-01-T6), 2 No. London Plane (TPO Ref: 2022-01-T3 & 2022-01-T4), as well as the Horse Chestnut (TPO Ref: 2022-01-T2). These protected trees are located either at the confluence of Bullhouse Brook and Whitelands Brook, or

within their banks and concern is raised that the proposed drainage works will have a direct impact on their Root Protection and habitat. These direct impact of these works needs to be assessed.

Clearly this is wholly unacceptable and would have a significant impact upon the ecological, landscape and heritage value of the habitats, as well as potentially impact upon existing protected species. Whilst this has been highlighted on numerous occasions, it appears no further evidence has been requested to take account of this.

Transport

Numerous representations have previously been made relating to the proposed development's impact on transport and these remain valid for the Appeal.

Previously, The Stevens Family noted that within the planning application Transport Assessment it was highlighted that the site is '*notably reliant upon infrastructure improvement in the locality, in order to promote travel by means other than private car*', yet it is indicated that the development would fail to deliver the footway and cycle way itself. Furthermore, that due to the lack of viability, the Authority would not be seeking a financial contribution from developers toward sustainable transport, which would equate to in excess of £3,700,000. Rather it is considered that a transfer of a 10m strip of land to the Council across the site frontage with Port Road via the s106 Legal Agreement would be acceptable to compensate for the fact that the development would fail to deliver any sustainable links itself. Clearly this needs much further consideration as an evidence base for any allocation of the land.

Further consideration is also needed to fully explain how the land transfer would equate anywhere near to the required financial contribution the development generates and if this is sufficient to adhere to the Sustainable Transport requirements set out in Future Wales, Llwybr Newydd and Planning Policy Wales.

Ecology

Reservations remain regarding the impacts of habitat loss and hedgerow loss from the Appeal and on the number of rare species that have been recorded on site. In fact, the ecological information previously provided to the planning application, on behalf of The Stevens Family, noted that in their review it was highly suggestive of a wider presence of protected biodiversity within both the area immediately adjacent to the proposed development, as well as the proposed allocation site itself.

Summary

In summary, The Stevens Family continue to have strong reservations regarding the Appeal proposals, many of which have been previously raised and continue to be unaddressed by the applicant, which it is felt must be resolved before the proposals can be appropriately determined. The route of a sewer across our client's land must be addressed urgently and we must be kept informed as the issue is addressed.

Overall, the proposed development continues to raise concerns regarding drainage, transport, and ecology, and in particular the impact on the recently updated national planning policy – Planning Policy Wales (12th Edition 2024) and the impacts of Chapter 6.

Furthermore, a review of the viability within the RPS Updated Delivery Report (November 2024), confirms that the proposed development continues to be unviable and would result in a significant loss

of - £6.86 million based upon total costs in the order of £183.29 million. Moreover, this is not including any allowance for planning obligations which would increase the loss and also does not appear to provide any figure for the loss assuming interest is charged.

Whilst this updated report is yet to have independent review (such as the previous versions by Avison Young) it is clearly evident that this scheme is wholly unviable and has considerable impacts upon the required s106 contributions levels to be provided. There are serious questions as to how such an unviable scheme can even be considered.

Overall, The Stevens Family raise a number of concerns for the Inspector to consider in their determination of the current Appeal.

Please also note that The Stevens Family would wish to be observers of the Appeal Inquiry.

Yours sincerely

A black rectangular redaction box covers the signature of Simon Barry. A thin, dark, curved line extends from the right side of the box, suggesting a handwritten flourish or the end of a pen stroke.

Simon Barry
Director

Tel: [REDACTED]

Email: [REDACTED]