

**IN THE MATTER OF A PLANNING APPEAL  
BEFORE PLANNING AND ENVIRONMENT DECISIONS WALES**

**Re Land at Model Farm, Port Road, Rhoose CF62 3BT**

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**POSITION STATEMENT ON INQUIRY PARTICIPATION  
ON BEHALF OF VALE COMMUNITIES UNITE**

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**A. INTRODUCTION AND OVERVIEW**

1. This brief position statement is made on behalf of Vale Communities Unite (“VCU”), following the pre-inquiry case management conference (“CMC”) held on 13 January 2026. Specifically, VCU firmly refutes the contention made during the CMC, on behalf of the Appellant, that VCU’s cross examination should be *‘extremely limited’*.
2. This statement is intended to assist by the Chair by explaining VCU’s position as to the intended scope of its cross examination, in advance of the inquiry resuming. Its purpose is to help ensure that the inquiry is procedurally fair. VCU is also anxious to minimise the risk of inquiry time being incurred on procedural disputes between VCU and the Appellant.

**B. LEGAL FRAMEWORK**

**Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 SI No 544**

3. This inquiry is being conducted pursuant to the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 SI No 544. First, regulation 38 provides as follows:

**38.— Participation in an inquiry**

- (1) The persons who may take part in an inquiry are—
  - (a) the appellant;
  - (b) the local planning authority;
  - (c) any person invited to take part by the Welsh Ministers.

- (2) Nothing in paragraph (1) precludes the Welsh Ministers from permitting any other person to take part in an inquiry.
- (3) Any person who takes part may do so on their own behalf or be represented by any other person.

4. VCU is an invited person for the purposes of regulation 38(1)(c).

5. Secondly, regulation 45 provides as follows (insofar as material):

**45.— Procedure at inquiry**

(1) The appointed person presides at the inquiry and must determine the procedure at the inquiry, subject to these Regulations.

...

(6) The appellant, local planning authority and any person invited to take part in an inquiry may cross examine persons giving evidence but, subject to the foregoing and paragraphs (7) and (8) [not relevant for these purposes], the calling of evidence and the cross examination of persons giving evidence are otherwise at the discretion of the appointed person.

(7) The appointed person may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any matter,

which the appointed person considers to be irrelevant or repetitious.

6. As such, as an invited party, VCU has a statutory entitlement to cross examine persons giving evidence. The Chair retains a discretion, however, to refuse to permit cross examination in the event that the Chair considers it to be '*irrelevant or repetitious*'.

7. There is no statutory requirement for an invited person to have adduced its own evidence in order for the entitlement to cross examine to be triggered. Equally, the discretion to refuse to permit cross-examine does not turn on whether the cross-examining party has itself adduced evidence in the relevant field.

8. In *Secretary of State for Communities and Local Government v Engbers* [2016] EWCA Civ 1183 (at para 5), Lewison J held that the statutory procedural rules are '*not a complete code*', because:

the inspector is also required by the common law to conduct the inquiry in accordance with the principles of procedural fairness. One of the principal purposes of the Rules is to make the inquiry more focussed, so that the main protagonists (i.e. the appellant and the local planning authority) know what is in issue between them. At the same time, however, the ability of the public to participate in environmental decision making is of considerable importance, as recognised for instance by the Aarhus convention. (Emphasis added)

## **PEDW Guidance on hearing and inquiries**

9. PEDW has published guidance on hearings and inquiries, dated June 2022.

10. Insofar as material, the Guidance provides as follows:

211. Cross-examination is the key part of the adversarial inquiry process and the point at which the evidence of one party is tested by the advocate(s) for the opposing party/ies. Advocates may ask a series of questions that are intended to lead the witness for the opposing side towards a particular answer. The aim of the questioning may not always be clear at the outset and it is best to avoid intervening too early. However, the advocates have a duty to assist the inquiry, so be prepared to intervene when the questioning does not appear to be helping you.

11. Moreover, the Guidance provides:

### ***Who has the right to cross-examine?***

233. In the interests of natural justice, alongside the appellant and LPA you should allow invited parties to cross-examine witnesses. Interested persons should also normally be allowed to ask questions of a witness giving evidence for the side they oppose. Try to make sure that questions do not repeat those already put by the opposing advocate. 234. The convention is that statutory bodies should normally be given the opportunity to present their case and cross-examine/ask questions before any other parties.

12. Finally, the Guidance further lists a series of instances where inspectors are advised to intervene, these include, for example:

- To prevent repetitious questions or answers.
- To prevent unhelpful or irrelevant questions.
- To prevent questions which are outside the witness's expertise/knowledge.
- To prevent questions and answers which seem calculated to annoy.
- To stop cross-examination on legal matters if it does not appear to be assisting. Such matters are normally dealt with in submissions rather than through the cross-examination of a non-lawyer by an advocate...

13. The Guidance does not attempt to limit invited parties or interested parties' ability to challenge an Appellant's witnesses, even in the event they are unable to adduce their own evidence.

### **C. SUMMARY OF VCU'S POSITION ON ITS PARTICIPATION IN THE INQUIRY**

14. In short, so as to ensure that the Appellant's non-determination appeal has been rigorously tested, VCU will comprehensively cross examine each of the Appellant's expert witnesses.
15. As outlined in its opening submissions of 2 April 2025, VCU advances its objection to the proposed development on financial viability (paras 13 to 16), planning policy (paras 18 to 20 and 55), ecology and biodiversity (paras 31 to 36 and 40 to 41), climate change (paras 37 to 39), heritage (42 to 48), traffic (paras 49 to 50), and character and appearance (paras 51 to 54).
16. VCU will therefore cross examine the Appellant's expert witnesses in each of the fields. Moreover, insofar as a representative of the LPA presents oral evidence on planning policy, VCU will also cross examine them.
17. The following factors underscore the importance of ensuring VCU's full participation in the inquiry, by testing the Appellant's evidence, especially in the context of the inquiry being within the scope of the Aarhus Convention.
18. First, as an invited party, VCU has a statutory entitlement to cross examine, subject to the Chair's discretion to prevent cross examine which is irrelevant or repetitious. Plainly, it is not VCU's intention to ask irrelevant or repetitious questions in cross examination.
19. Secondly, in light of the Local Planning Authority's ("LPA") neutral position in the non-determination appeal, VCU is the sole formally recognised objector to the proposed development. VCU represents a very large number of local objectors, who rely on VCU to advance their objections. Without VCU, therefore, the inquiry would likely be faced with a much higher number of individual interested parties in attendance. As will be known to the Chair, the proposed development is an extremely controversial scheme, with over 500 objections received during the initial public consultation on the application.

20. VCU's role is therefore critical to ensure that the Appellant's evidence is appropriately tested. In order to assist the Chair, and to ensure that the inquiry is procedurally fair, it is necessary that VCU is afforded the full opportunity to cross examine the Appellant's witnesses on their evidence, in the usual way.
21. Thirdly, VCU is a campaign unincorporated association comprised of members of the local community, who run the campaign as unpaid volunteers. It has extremely limited resources (which are dwarfed by the extensive resources of the Appellant). It would be antithetical to procedural fairness for VCU to be unduly limited in its ability to test the Appellant's application because it has been unable to resource experts of its own in particular fields.

#### **D. CONCLUSION**

22. VCU hopes this written statement facilitates the efficient conduct of the inquiry, by making clear, in advance, its position as to its role as the formal recognized objector in the inquiry process.
23. VCU would be grateful if the Inspector would please confirm his position at his earliest convenience.

**Gethin Thomas**  
**39 Essex Chambers**  
**11 February 2026**