

**CAERPHILLY LOCAL DEVELOPMENT PLAN 2006-2021**

**EXAMINATION IN PUBLIC**

**SUBMISSION TO SESSION 5**

**(APRIL/MAY 2010)**

***Objections to Policy HG 1.64 – Allocation of land at the former  
Bedwas Colliery Site for residential development.***

**SUBMISSION ON BEHALF OF: - BEDWAS COLLIERY ACTION GROUP**

**(Asbri Ref: 10.119)**

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## **1     INTRODUCTION**

- 1.1     This statement is produced on behalf of the Bedwas Colliery Action Group (Ref 3846) and responds to various issues raised by the Inspector for consideration at the Examination. Associated community groups, including the Trethomas Conservation Group (Ref 1392) have also assisted in the preparation of this evidence.
- 1.2     The Action Group are objecting to the allocation of the former Bedwas Colliery Site and have been invited to Session 5 – Bedwas Colliery.
- 1.3     My Clients have played a full part in the preparation of the Local Development Plan, and welcome this opportunity to present evidence to the Inspector through Asbri Planning Limited who will be highlighting the Planning Issues. RE Phillips & Partners have undertaken work on the cost implications of developing the site in accordance with Caerphilly CBC policy requirements.
- 1.4     This statement is structured as follows:
- In Section 2 a description of the objection site is provided together with an assessment of the prevailing physical and environmental issues.
  - In Section 3 we examine the background to the site's allocation, including the Council's Candidate Site Assessment process. With the aid of information referred to in Section 2
  - In Section 4 we refer to evidence prepared by RE Phillips and examine the cost implications of bringing the site forward.
  - In Section 5 we consider the proposals against the tests of soundness identified in Local Development Plans : Wales.
  - Our Conclusions are recorded in Section 6

The Separate Volume of Appendices will be referred to in each of the above Sections.

## **2.0 SITE DESCRIPTION AND ASSESSMENT OF ENVIRONMENTAL ISSUES AND CONSTRAINTS**

### **Site Description**

- 2.1 The Bedwas Colliery site lies on the higher ground located directly to the north of the existing settlements of Bedwas and Trethomas. The site identified for development in the Local Development Plan (LDP) comprises the former colliery surface, which includes the former Benzol and Cokeworks site, and some agricultural land to the east of the colliery surface. The site is contained to the south and west by the existing settlement of Bedwas and to the north and east by a high voltage power line.
- 2.2 The former Bedwas Colliery occupied the central plateau area of the site, with the former Benzole, and by-products plant to the east. Old railway lines and rail sidings run west to east across the site. The surrounding area includes colliery tips to the north, residential properties, allotments and agricultural land.
- 2.3 The buildings associated with the colliery, coking works and by-product plant have largely been demolished, although some retaining walls, structure bases and foundations still remain. A number of more recent above ground concrete tanks are also evident on the site. The site is crossed by a public right of way, gas mains and other services.
- 2.4 The LDP identifies the site for mixed use development, specifically allocating the site for housing use for 630 units (HG1.64), for the provision of a primary school (CF1.34), the provision of an access road (TR 7.3) and the provision of formal leisure facilities in the form of playing pitches (LE4.11).
- 2.5 However, prior to any development taking place, the site is required to be the subject of significant reclamation and remediation works to re-profile the extensive spoil tips which overlook the site, and to provide an appropriate

landform for the development and to address the major contamination levels which exist on large parts of the site. The site is in multi ownership, there are at least six different land owners which include Terex, Forest Enterprise, Mr B Evans, The Thomas Davies Estate, Sustrans, and Caerphilly CBC. Land acquisition issues are likely to require resolution by Compulsory Purchase procedures. A Valuation and Development Appraisal has been prepared by Martin Lennon MRICS of RE Phillips, which discusses the cost implications is included in Appendix 1, and further discussed in Section 4. The nature of problems associated with the site are discussed under the appropriate headings below. These points have also been referred to in the Self Assessment Schedule comparing the Objectors' SA/SEA assessment with that of the Council, included in Appendix 2 and further discussed in Section 3.

### **Pollution, Contamination and Reclamation**

- 2.6 In the 19<sup>th</sup> Century Ordnance Survey Maps show that the land was farmland with several adits mining shallow coal reserves. The Bedwas Navigation Colliery Company sunk two shafts in 1909 . The pit was nationalized in 1947 and in the final years supplied coal for the Llanwern Steelworks. The colliery was closed in 1985 and the shafts were filled and capped. The tips were re-profiled in the 1980's for safety reasons.
- 2.7 British Benzol and Coal Distillation Ltd formed a coke and by-products plant in 1929. 35 coke ovens were in operation which increased to 53 by 1971, when the plant covered 2.37 hectares. The by-products were ammonia, naphtha, benzol, pitch, sulphuric acid, tar and creosote and latterly, benzene and toluene.
- 2.8 Investigative work was undertaken on the site in 2002 by Parsons Brinkerhoff Ltd. This was commissioned by Caerphilly County Borough Council and funded by the former Welsh Development Agency (now a WAG Department, DET). The findings of the study information were subsequently incorporated into several documents, including Supplementary Ground Investigation Reports – Volumes 1 and 2 (Examination Library document ED.35), an Assessment of

## Contamination Liabilities, and a Remediation Strategy.

- 2.9 Potential hazards were identified in the site soils, mainly associated with the former Benzol plant, which comprise organic compounds, arsenic, asbestos, lead, organic vapours, carbon dioxide and combustible materials. Surface water pollution was noted as occurring intermittently at times of high rainfall and groundwater pollution was also evident in the form of hydrocarbons present at the top of the minor aquifer.
- 2.10 In the remediation strategy, the most beneficial, sustainable and cost effective remedial method was identified as a combination of soil treatment using bioremediation methods in parallel with excavation and replacement, product removal and groundwater treatment. Initially, excavation and disposal methods would remove the 'very high' concentration organic rich soils, combustible materials and high lead concentrations soils. It has been acknowledged by the Council that there are between 88,000 and 94,000 cubic metres of such contaminated soils on the site.
- 2.11 It was stated in the Report that the areas of highly contaminated soils would be removed from site to a suitably licensed landfill. However at the time of the Report the impact of the new Landfill Directive on costs of disposal was unknown. The costs of these measures may be prohibitive when considered against all the other abnormal costs associated with the development.
- 2.12 It is also clear that the local residents' concerns that significant quantities of contaminated materials will require removal by road via restricted residential streets. There are major health and safety issues where the concern expressed by local residents has not been adequately responded to by the Council.

## **Highways and Access**

- 2.13 It has always been the Council's view that existing roads to the site are sub-standard and inappropriate to gain access to the site for development. The Council has confirmed that whilst existing access points can accommodate a

small amount of additional traffic, a new access road will be required to serve the development. Hence the proposed access road (TR7.3) in the LDP will require an amended access for Lower Graig y Rhacca to be included in the overall design of the scheme.

- 2.14 In responding to objectors' concerns at various stages of the Local Development Plan consultation process in the Council Consideration of Deposit and Alternative Site Consultations (15<sup>th</sup> September 2009 – Examination Document Ref SB 56), reference is made to the cumulative impact of developments in the area which include the 545 dwellings proposed at the Waterloo site, between Machen and Trethomas. The Council point to a Transport Assessment Undertaken for that scheme which showed that the existing road network has sufficient capacity to accommodate the traffic generated by the development. From this the Council have concluded that with both sites being developed, the proposed new junction to serve the Bedwas Colliery site *"would not realise congestion"*.
- 2.15 The Council acknowledge, however that road capacity through Trethomas is restricted, and as a result local improvements would be required to increase capacity. They say however, that the nature of improvements would be established through a Transport Assessment associated with a future planning application. The Bedwas bridge junction would also require upgrading. This is subject to a policy – TR6.4 in the LDP for which the Council are relying on Section 106 contributions to achieve as part of the Caerphilly Basin Obligation.
- 2.16 The Caerphilly Basin Strategic Highway Network Obligation (published as Supplementary Planning Guidance for the LDP – Examination Document LA 36) is seeking £8,026 per unit and Bedwas Colliery is included as one of the contributors (interestingly it gives a number of units as 413). This is based on a total cost of improvements to the total road network of £17,705,000 divided by 2206 (the number of anticipated units contributing). Improvements to the A468 Bedwas Bridge roundabout is costed at £7,245,000 as it requires a new bridge crossing. For appraisal purposes RE Phillips & Partners assumed 630 units at the



Bedwas Colliery site and have reduced the 'roof tax' per unit to £7,300.

- 2.17 Whilst the Council state that representors have not provided evidence to substantiate their concerns, they have not themselves addressed these concerns in any depth other than referring to a Transport Assessment carried out for another scheme, and an acknowledgement that improvements along the A468 corridor are necessary.

### **Drainage**

- 2.18 Concern has previously been raised by local residents over flooding occurrences on the southern boundary of the colliery surface site. The Council have stated that the reclamation proposals will need to rectify the existing land drainage situation and until a scheme is implemented the Council are reluctant to fund improvement work on privately owned land.
- 2.19 Dwr Cymru/Welsh Water (DCWW) in making representations to the Local Development Plan have stated that *"the area suffers from sewage overloading and low water pressure and developers may be required to fund necessary improvements."* As no improvements to rectify this situation are included in DCWW's 5 year programme it would be the responsibility of the developer to provide the necessary infrastructure improvements.
- 2.20 As part of the reclamation works a new surface water drainage system will be required to be put in place to relieve the drainage system along Navigation Street and the centre of Bedwas. The current arrangements take the bulk of the water run-off from the tips. In order to facilitate this scheme a new channel will be constructed to carry water off site and discharge it into Red Brook.
- 2.21 It is consequently apparent that significant on, and off site costs will be incurred in addressing drainage and sewerage issues which again will need to be addressed by reclamation proposals and borne by the developers. A response from the Welsh assembly Government's Head of Land Reclamation on future funding is included in Appendix 3.

## **Landscape**

- 2.22 The Council have applied LANDMAP, a tool for assessing landscape qualities, in determining Special Landscape Areas in the Local Development Plan, and for use in site assessment procedures. Consequently the whole of the area to the north of the site, which includes the tips, is proposed as a Special Landscape Area. The Submission Site, however, is described as "Derelict, overgrown with scrub and framed by the backdrop of the tips". The landscape assessment undertaken states that there is "nothing particularly remarkable" about the visual and sensory quality of the landscape.
- 2.23 Professor Malcolm Parry, the former Head of Architecture at Cardiff University and well known authority figure on Welsh architectural and industrial heritage, has attended a meeting of the Bedwas action Group and has highlighted the importance of the tips in both heritage and landscape terms as one of the few surviving examples.

## **Ecology**

- 2.24 An ecological assessment of the site was undertaken of the site including the tips and the proposed access road in 2002 by Hyder Consulting. The work included an Ecological Walkover Survey (April 2002), and Specialist Ecological Studies (October 2002). Extracts are included in Appendix 4. These studies, upon which the Council have based their ecological assessments are therefore considerably out of date. The latter survey, nevertheless concluded that a number of habitats and features are of high value for nature conservation.
- 2.25 It was emphasised in the recommendations of the Specialist Report that it would be unlikely that the area could be developed and still support all of the same types of wildlife as currently occurs on the site. Species which require large areas of open space such as grass snakes will be affected by the erosion

of habitats and by close proximity to housing and roads. The primary recommendation was that certain key areas should be prioritised for retention in any future development strategy.

- 2.26 The proposed access road will cross the Site of Importance for Nature Conservation (NH3.172) and will consequently lead to the loss of species rich neutral grassland and isolation of part of the SINC. In addition to this the junction of the new access road and the A468 is likely to result in the loss of some of the mature, broad leaved woodland adjoining Red Brook. The new drainage infrastructure referred to above is also proposed to cross the SINC and will have potential adverse impacts on the broad leaved woodland.

### **Health and Safety**

- 2.27 Various health and safety concerns have been raised by objectors. These can be summarised under the following points:
- Tip stability, particularly in the context of the siting of a future school. Despite proposals to re-profile the tips, concern remains regarding underlying drainage which may affect the structural integrity of the tips;
  - The scale and nature of the contaminants present, which include known carcinogens such as Naphthelene. Their disturbance through reclamation works may increase potential 'pathways' for human ingestion. Transportation of waste from the site may also contribute to the airborne release of pollutants. Reference has been made to health problems in Corby, which were proven to be directly attributable to the removal of wastes from a steelworks site;
  - Traffic generation, both in terms of construction traffic and that generated by the development;
  - Proximity of overhead, high voltage power lines;
- 2.28 A local consultant psychiatrist (Dr James Walters) has referred to the problems of anxieties as to the potential harmful effects of development as a cause of ill health. The issue of perception of harm as a material planning consideration was established by the Court of Appeal judgement in respect of Newport

Borough Council v the Secretary of State for Wales 18/6/1997. The Court stated that an Inspector should have accepted that perceived fears, even if not soundly based on scientific fact, were relevant. (Relevant correspondence on health-related issues is included in Appendix 5).

- 2.29 All the factors described in this Section have been cited in concerns raised by residents in objecting to the scheme. A consultation exercise held in September 2008 which sought to engage local residents in the plan preparation process met with widespread opposition to the proposals as was evidenced by the public meetings which were held to discuss it. As community involvement is at the heart of the new plan process this suggested that the proposals which emerged have not been based on a true reflection of the feelings of the local residents, whose concerns have not been responded to by sound evidence. These matters are explored further in the ensuing section, which examines the background and timescale of the proposals, and the Council's assessment of the site through the Local Development Plan process.

### 3 **BACKGROUND TO THE PROPOSALS**

3.1 A previous planning application to “reclaim land to leave suitable for housing, education & amenity/recreation” ( Ref 5/5/94/0265) was submitted by, and subsequently approved, by the former Rhymney Valley District Council, with conditions, on 13<sup>th</sup> March 1995.

3.2 A Report to Caerphilly CBC's Technical, Environmental and Scrutiny Committee by the Council's Director of Technical Services was considered on 23<sup>rd</sup> May 2000. A copy of this Report is reproduced in Appendix 6. Development Strategy Options were considered in the Report which were:

- Option 1 – Leave reclamation of the lower part of the site to the private sector
- Option 2 – Promote the reclamation of the whole of the site for Public Open Space/agricultural use
- Option 3 – Promote a positive after use centre around housing, education, commercial and leisure uses, accessed via a new link onto the A468.

3.3 Whilst advantages and disadvantages of the three options were outlined, it was recommended to Cabinet that Option 3 be pursued. It was however, stated in the Report that:

***“In the event that the Council agrees to the principle of this option there would be a need for further studies before a final decision is made to pursue it, including the economic viability of this option. There would be a need to assess the potential monetary value of the development to establish whether the increase in the scheme cost compared to option 2 can be justified. However, the potential benefits to the community of new facilities and infrastructure provision should be part of this assessment.”***

3.4 In drafting the Unitary Development Plan (UDP) consideration was given to the issue of whether the colliery surface site could realistically be reclaimed within the plan period. It was decided that, due to prevailing economic conditions and the requirement for reclamation to have been undertaken

prior to development commencing, the site was unlikely to be brought forward within the UDP period, which extended to 2011 and as a result the UDP did not allocate the colliery surface for any after uses. However the colliery surface was retained within the identified settlement boundary. The reclamation of the whole site remained an aim during the Plan Period. The access road (TR7.2) was also maintained. (Examination library document LA 39 refers)

- 3.5 'Bedwas Colliery and Tips', an area amounting to 169.3 hectares is identified as a land reclamation proposal under Policy D1.23. The text states that :

***“Part of the site is included within the settlement boundary because it represents a logical brownfield development opportunity and has been considered for mixed development use in the past. Therefore a range of urban uses will be acceptable in principle subject to to the satisfactory treatment of the contamination that is present on the site. Landscaping in the southern part of the site will be complemented by a woodland planting proposal further up the hillside. There are no formal development proposals for the extensive northernmost part of the site. The scheme boundary in this area is understood to enclose the maximum area required for treatment of the prominent tip.”***

- 3.6 The proposed access road was shown on a different alignment to that proposed in the Local Development Plan, following a diagonal route to link with the eastern part of the site as it related to the settlement boundary. No objections were raised to the colliery surface site during the UDP Deposit consultation period. An objection was, however, received on the basis that land to the east in the vicinity of Glyn Gwyn Farm should be allocated for housing use. The Inspector, following the Public Inquiry dismissed the objection as an intrusion into the green space and dismissed any change to the UDP. It is noted, however that this land is included in the proposed LDP allocation and the access road route is shown as entering the site close to the eastern boundary.
- 3.7 The Unitary Development Plan was not subsequently adopted due to issues regarding minerals and waste. However it has status as an approved

document, having undergone a public inquiry and having addressed other issues fully, including housing land. In 2004 Caerphilly Council decided to commence preparation on a Local Development Plan (LDP). Part of the LDP process involves the consideration of 'Candidate Sites, ie sites promoted by organisations and individuals for development. As part of this process the Bedwas Colliery site was assessed.

- 3.8 The Council published a 'Preferred Strategy' document in April 2007. This is described in more detail in Section 5. As part of the Strategy documentation the results of an Initial Site Assessment procedure for candidate sites were published. The Initial Site Assessment procedure was described in Section 8 of the Appendices to the document. The procedure is described as:

***"In order to ensure that land identified in the LDP is capable of development; can contribute to the delivery of the Development Strategy; and meet the Objectives of the Plan, the Council has undertaken a significant amount of site assessment work at this early stage of plan preparation as an integral part of the Evidence Base."***

It goes on to state that the procedure outlined below is designed to ensure that there is a clear, transparent and objective assessment procedure in place, which makes the process accessible to all interested parties.

- 3.9 The Site Assessment Summary, which was published in Section 10 of the Preferred Strategy Appendices included an assessment of the Bedwas Colliery Site – Ref D04 (included in Appendix 6 of this document). This states that the site has satisfied the initial planning assessment, ie

*"Subject to reclamation, the site offers a large brownfield opportunity and has little ecological value."*

- 3.10 The comments from Highways confirm that existing road infrastructure would not be able to cope with existing demand and that a new access road would be required. Environmental Health state that further information is required – "a contaminated land investigation".

- 3.11 The Countryside Officers' conclusions state that "the majority of the site is suitable as it is limited in conservation and landscape value. Woodland and scrub along northern boundary should be retained. "
- 3.12 In general terms the site was assessed favourably in terms of its potential to provide infrastructure and community facilities, exploit brownfield opportunities, provide a 'balanced future', be resource efficient, and complement the settlement function. It is clear however, that these boxes were ticked on the basis that they reflected the aspirational qualities attributed to the development in a scenario where site constraints could be effectively addressed.
- 3.13 The Deposit Local Development Plan was published in October 2008. This identifies the site for mixed use development, specifically allocating the site for housing use for 630 units (HG1.64), for the provision of a primary school (CF1.34), the access road (TR 7.3) and the provision of formal leisure facilities in the form of playing pitches (LE4.11).
- 3.14 Accompanying the Deposit Local Development Plan were background documents, including Background Paper No 6 : Housing (Examination Document BP 6). These included the results of the 'Expert Assessments' of sites which involved input from a range of Council officers and which matched various criteria against relevant Sustainability Appraisal/Strategic Environmental Assessment objectives.
- 3.15 The Table which gives the results of this Assessment is also included in Appendix 7. The anticipated effects were denoted by symbols – green pluses for positive effects, blue circles for neutral effects and red crosses for negative impacts. 7 neutral effects, 7 positive effects and 4 negative categories were identified. These are assessed in the paragraphs below.
- 3.16 Two of the 'Plus' categories are not applicable to the site. These relate to Recognised Sites of Geological Importance and Flood Risk (although, as has



been described in the previous section there are flood issues which need addressing. It would therefore be appropriate if both were categorised as neutral.

- 3.17 Further positive ratings (for short, medium and long term effects) are awarded for the Removal of Derelict Land, and the Removal of Contaminated or Under-used Land (double pluses in respect of the latter). Whilst under normal circumstances the redevelopment of brownfield land is accepted as beneficial, Bedwas Colliery is exceptional as details of remediation work has yet to be established and if, as would seem likely, large volumes of contaminated wastes have to be removed long distances and with a risk to the community (there is a comment below the Assessment that "contamination must be carried off-site to allow development". The positive assessment of the site in this respect is therefore questioned.
- 3.18 Further positive categories relate to the Promotion of the Use of Alternative Travel other than the car and the Delivery of Services and Facilities in Locations Accessible by modes other than the car. Whilst the site is close to existing facilities in Bedwas and Trethomas, including shops, schools and employment, it is not a location with immediate access to the passenger rail network and the assessment probably assumes that there will be public transport penetration to the site. Nevertheless the location alone will not encourage the use of alternative travel.
- 3.19 Finally a 'plus' is awarded on the grounds that the development will support the Role and Function of the Settlement. There is no evidence that this will be the case and residents fear that the impact of such a large development may be negative in eroding the strong community identity which characterises both Bedwas and Trethomas.
- 3.20 All the 'Positive' impacts identified by the Council in the Site Assessment Process can therefore be questioned. The four negative impacts on landscape and ecology have correctly been acknowledged. A 'Self

Assessment' undertaken by Asbri Planning, in consultation with our clients, with reference to evidence discussed in this submission document is included in Appendix 1.

- 3.21 In the absence of firm evidence to the contrary it would appear that the assessment has not been based on a full and accurate assessment of the evidence base and that it appears that certain criteria have been given a positive analysis purely in order to justify the allocation of the site for housing and mixed use purposes.

#### **4 COST AND TIMING IMPLICATIONS OF DEVELOPMENT**

- 4.1 In response to concerns expressed by the Inspector regarding the delivery of housing targets, including affordable housing provision, with particular reference to the Bedwas Colliery site, Caerphilly County Borough Council, in a letter dated 20th November 2009 (Examination Document ED 7), responded as follows:-

***"The site requires remediation/reclamation prior to any development on the site and this will require grant funding from WAG to be realised. In this respect recent correspondence from WAG advised that whilst future funding for the project has been identified in principle, it is difficult to identify the level of funding required or a timescale for when resources will become available.***

***Given the confirmation of in-principle identification of funding the Council is confident that reclamation/remediation of the site will be realised, which will then facilitate the development of the site. It is anticipated that the development itself will be undertaken by the private sector and will be dependant on general market forces."***

- 4.2 A Valuation and Development Appraisal has been prepared by Martin Lennon BSc MRICS of RE Phillips & Partners, is included in Appendix 1. This concludes as follows:

***"There will be no progress towards an actual land reclamation scheme until a commitment from WAG to fund a reclamation scheme costing in excess of £18,000,000 is given.***

***Caerphilly CBC have been waiting for a funding commitment since 1996.***

***If Funding is confirmed during the second half of the plan period there would be a minimum lead time of some four years before a ten year residential build out program would commence.***

***In order for developers to comply with the S106 costs, the 40% affordable housing requirement, the roof tax, and the unknown availability of future Social Housing Grant a reclaimed site may not return any Capital Receipts to repay land reclamation grant. This financial uncertainty will act against Bedwas when limited grant is being allocated to schemes by WAG."***

- 4.3 A schedule illustrating comparison with 'competing' land reclamation schemes in South-East Wales. This illustrates that the Bedwas Colliery scheme is not alone in requiring major costs to achieve a beneficial after-use. The information was received via the Freedom of Information Act and shows that the total cost of all schemes in the area amounts to £57,814,000.
- 4.4 Contrary to the above Council statement, therefore, there can be no confidence from the Council that reclamation/remediation of the site can be realised. Whilst the Council also states that it is continuing to broker meetings with the Welsh Assembly Government and the landowners to progress the scheme, no evidence has been submitted to date of an agreed strategy to realise the implementation of the site which would contradict the Valuation and Development Appraisal referred to above. This also has implications on the overall soundness of the plan, as whilst the Council state that there will still be sufficient land to meet overall housing land requirements, this is disputed. The following section discusses these soundness issues.

## **5.0    CONSIDERATION OF THE PLAN AGAINST TESTS OF SOUNDNESS**

- 5.1    This section examines the Plan against the 10 criteria for assessing soundness, as identified in Local Development Plans Wales (Welsh Assembly Government, 2005). These are categorised below under the Procedural (P 1-2), Consistency (C 1-4) and Coherence and Effectiveness Tests (CE 1-4).

***P1: the Plan has been prepared in accordance with the Delivery Agreement including the Community Involvement Scheme.***

- 5.2    The Addendum to the Delivery Agreement, including the Community Involvement Scheme, made provision in the Indicative Timetable, agreed by the Council in 2009, to consider 'Focused Changes'. This reflected Welsh Assembly Government Circular CL-01-2009 which allowed planning authorities to consider focused changes appropriate to ensure that the Plan is sound.
- 5.3    Whilst the first set of Focused Changes was rescinded by the Council following pressure from the Welsh Assembly Government, it is clear from the decision of Full Council on 15<sup>th</sup> September 2009 to delete major allocations that Elected Members did not feel that they had 'ownership' of the Plan in seeking to challenge it at such a late stage. Indeed a vote was taken in respect of the Bedwas Colliery site, where a motion to defeat the allocation was defeated by 36 votes to 24. The Action Group maintain that this vote was not properly informed as the true scale of contamination of the site had not been revealed.
- 5.4    On this basis the Delivery Agreement, which states in paragraph 9.15 that *"Elected Members are directly accountable to the electorate and are the people who will make the final decisions at key stages throughout the process"* is open to question. In particular, the question exists as to whether elected members have had full access to evidence which enables them to make an informed decision.

- 5.5 With regard to the Community Involvement Scheme, it is also apparent that the proposals have not been based on a true reflection of the feelings of the local residents, whose concerns have not been responded to by sound evidence. As such the local public's perceptions of harm emerging from the scheme have not been addressed and in some instances information has only been provided reluctantly by the Council via Freedom of Information Act procedures.

***P2: the Plan and its policies have been subjected to sustainability appraisal including strategic environmental assessment.***

- 5.6 It has been demonstrated in the earlier Chapter which considered the Council's Analysis of the Site that the sustainability appraisal/strategic environmental assessment which has taken place, and which informed the Council's site assessment process which led to the allocation of the site was not based on a proper assessment of the evidence base.

- 5.7 An assessment by the Council of the probable significance of the proposals contained in the Local Development Plan and how these achieve or support each of the 25 objectives in the Sustainability Framework has results summarised in the Environmental Report: Non Technical Summary (Document SB22). Objective 2 is stated as:

***"To improve the condition of housing and ensure that the range and choice of housing types are accessible to meet the needs of residents."***

- 5.8 Paragraph 25 of the document refers to negative impacts of various housing land allocations. These are listed as - increased need to travel; effects upon congestion; impact on Air Quality Management Areas; flood risk; and damage to the landscape and biodiversity. All these issues are relevant in the context of the Bedwas Colliery site, together with major health concerns over the disturbance and removal of toxic materials. The assertion in the document that "the use of design briefs and consideration of detailed design should

mitigate these concerns" is not appropriate in the context of Bedwas Colliery. Whilst it is acknowledged that a future planning application would require Environmental Impact Assessment, the potential significant effects of the proposed development have not been addressed by evidence considered as part of the SA/SEA process. In this context the Plan has not been subject to a sufficiently rigorous SA/SEA process.

***C1: it is a land use plan which has regard to other relevant plans, policies and strategies relating to the area or to adjoining areas.***

- 5.9 The predominantly brownfield strategy for the Southern Connections Corridor in the Caerphilly Local Development Plan places considerable emphasis on the Bedwas Colliery Site to deliver its required housing. The colliery surface site represents the largest housing land allocation proposed in the Plan. As such it has major significance for the three Strategy areas and the delivery of the LDP as a whole.
- 5.10 In citing 'Housing Issues' in their responses to previous representations on the LDP the Council have stated that *"no development on the Bedwas Colliery site could have significant and wide ranging implications on housing provision within the Caerphilly Basin and for the wider LDP."* This statement suggests that a reliance on the site being developed for housing to deliver a key component of the LDP's housing target has been placed throughout the Plan Period with no alternatives considered. This does not provide any confidence that a sufficient choice of housing sites can be provided which will realistically be developed in the remaining 11 years of the Plan period.
- 5.11 Evidence being put forward by the Home Builders Federation will support the argument that an insufficient range and choice of housing land is proposed to be provided in the LDP, and will question the ability of the Plan to meet revised 2006 – based population projections published by the Welsh Assembly Government. The southern part of the Caerphilly County Borough in a regional context is a sustainable location in terms of its proximity to both Cardiff and

Newport and its good public transport links. In this respect the Caerphilly Local Development Plan does not have regard to adjacent local authority areas, including Newport and Rhondda Cynon Taf, where through their respective LDP strategies, are promoting high growth scenarios which are consistent with the up to date household based population projections.

**C2: it has regard to national policy**

- 5.12 Planning Policy Wales (March 2002) is the principal document, which sets out the land use policy context of the Welsh Assembly Government, for the consideration and evaluation of all types of development. Paragraph 2.7.1 states that:

***“Previously developed (or brownfield) land should, wherever possible, be used in preference to green field sites, particularly those of high agricultural or ecological value. The Assembly Government recognises that not all previously developed land is suitable for development. This may be, for example, because of its location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated. For sites like these it may be appropriate to secure remediation for nature conservation, amenity value or to reduce risks to human health.”***

- 5.13 The degree of contamination present on the Bedwas Colliery site and the measures necessary to remediate the site, which include the removal of significant quantities of special waste to landfill sites outside Wales, demonstrate that the site is more suitable for being retained for amenity value with measures being put in place to reduce any potential risks.
- 5.14 The development of the site for sensitive uses such as housing and a primary school, with risks posed to the local community from the disturbance and removal of hazardous substances therefore is in conflict with the above national policy.

**C3: it has regard to the Wales Spatial Plan**

- 5.15 The Wales Spatial Plan (WSP) provides a framework for the future spatial



development of Wales, and integrates the spatial aspects of national strategies, including social inclusion, economic health, transport and environmental policy. The South East Development Framework proposes distinct approaches for three areas in South East Wales. Bedwas is included in the Connections Corridor, which includes the lower South Wales valley areas. Here there is emphasis on initiatives in key settlements, including Caerphilly, where there will be a focus on creating affordable and attractive places to live and improving transportation linkages.

- 5.16 The development of the Bedwas Colliery site, however, will have a limited effect on securing transportation improvements as its development would have a major impact on the local highways network and much expenditure will be necessary to address this impact alone rather than secure improvements on a wider scale. Accessing the site will also have an adverse effect on local biodiversity interests. The disturbance of significant volumes of contaminants present on the site and their removal via the existing road network will also lead to concerns regarding health risks. 'Quality of life' is acknowledged as a key determinant in the Wales Spatial Plan, and in this context the proposals do not have regard to the Wales Spatial Plan.

***C4: it has regard to the relevant community strategy***

- 5.17 The Caerphilly County Borough Community Strategy : Community Planning in Action, was published in 2004. This sets out objectives under 4 themes of Living Environment; Regeneration; Education for Life and Health, Social Care and Well-Being. Objective 2 under the theme of Living Environment is to:

***“promote a culture of community self-help, cohesion and citizenship and involvement in decision making.”***

- 5.18 The identification of the Bedwas Colliery site for over 600 dwellings and other uses has resulted in cohesion amongst the communities of Bedwas, Trethomas and Machen. The communities' concerns regarding the impact of the scheme, however, have not been addressed by responses from the Council in a number of public meetings and through direct engagement and

correspondence with officers through the local Development Plan process. As a consequence the exercise has not promoted a culture where involvement in decision making has been apparent.

***CE1: the Plan sets out a coherent strategy from which its policies and allocations logically flow and, where cross boundary issues are relevant, it is compatible with the development plans prepared by neighbouring authorities.***

5.19 The Plan is coherent in the sense that, in broad terms the Strategy Areas identified exhibit differing characteristics which the policies seek to address. However, the site allocations proposed place an over-reliance on brownfield land. As such the Caerphilly LDP reflects Plans of adjacent local authorities, including Cardiff and Rhondda Cynon Taf.

5.20 At the recent Exploratory Meeting held in respect of the Cardiff Local Development Plan, various concerns were raised by the Inspector in the context of placing too much reliance on a 'brownfield' based strategy. These included the reduced numbers of family accommodation and affordable housing units achievable on such sites, and the need to meet housing needs across the whole of the area, rather than just in the Wards where the brownfield sites exist.

5.21 In seeking to achieve aspirational targets of maximising the amount of 'brownfield' land to be developed, the Council is therefore failing the above Coherence test in ignoring deliverability issues and the provision of a satisfactory range and choice of housing opportunities.

***CE2: the strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.***

5.22 Further to the above points, the Plan as it stands assumes that its housing land allocations will come forward within the remaining 11 years of the Plan Period.

This is questionable as evidence presented with this submission effectively demonstrates that the Bedwas Colliery site is heavily dependent on public funding and the allocation as a whole is unsound and not based on a robust evidence base.

- 5.23 Evidence upon which the site assessment has been based is also out of date and in need of being updated. This refers in particular to ecological work which was undertaken in 2002. The local planning authority would normally require such information to be updated every two years or so prior to using it to determine a planning application.

***CE3: There are clear mechanisms for implementation and monitoring.***

- 5.24 Mechanisms previously used for monitoring, which will continue to be employed include the Joint Housing Land Availability Studies. It will be important to monitor the uptake of land and status of sites, in terms of achieving a 5 year housing land supply.
- 5.25 There are no clear mechanisms, however, for bringing sites forward which are constrained. The reclamation works required on the site will necessitate a considerable amount of public funding. The Council is also relying heavily on improved market conditions which, even in a buoyant economy, may not favour the uptake of sites where development will entail major reclamation and remediation works. Furthermore, the deliverability of affordable housing, which is also important in monitoring targets, is also questionable.

***CE4: it is reasonably flexible to enable it to deal with changing circumstances.***

- 5.26 The Local Development Plan is seeking a high proportion of proposed residential development on previously used, brownfield sites in the Caerphilly Basin Area. Whilst it is acknowledged that brownfield development should be sought where appropriate, it is clear that issues associated with the Bedwas Colliery proposals will result in the site not being developed in the Local

Development Plan period, if at all. The Plan does not provide sufficient flexibility in the form of readily developable, greenfield housing opportunities that are necessary to encourage major house-builders to invest in sites which will be more likely to be marketable in the continuing, uncertain housing climate.

## **6 CONCLUSION**

6.1 This Statement is submitted as a response to the Caerphilly Local Development Plan on behalf of the Bedwas Colliery Action Group. My Clients object to the document on the basis that the proposed allocation of the former Bedwas Colliery Site:

i) has not been subject to a proper robust and detailed assessment by the Council and conspicuously fails as illustrated by the Self Assessment included in these representations.

ii) will not be deliverable within the Plan period due to the need for cross-subsidy by a significant amount of public funding, together with potential CPO procedures.

iii) suffers from abnormally high levels of ground contamination and the removal of significant quantities of hazardous and polluting substances via residential areas will have major health and safety impacts

iv) will have an adverse impact on the local community in terms of traffic generation

v) would make the overall plan unsound

6.2 With regard to the soundness tests it is considered that due to the reliance placed on the 630 units proposed at the Bedwas Colliery site, and the various issues associated with the scheme, together with public concerns, the LDP fails to meet the various soundness tests. We have demonstrated that the Local Development Plan fails the various tests of soundness identified in Local Development Plans Wales, with particular regard to the Bedwas Colliery scheme.

6.3 In the above context we have referred to study information, some of which has been obtained via the Freedom of Information Act. We have also highlighted concerns expressed by the Action Group and referred to the scale of local opposition to the scheme.

- 6.4 We have also demonstrated that this assessment has not been based upon a full and proper consideration of the evidence to hand. It has also been established that development is not viable in terms of private sector funding and is dependent on significant Welsh Assembly Government grant assistance for reclamation and remediation works. Such assistance has not been identified in the past and is unlikely to be forthcoming during the remaining Plan Period.
- 6.5 In order to address these objections the proposed scheme at Bedwas Colliery should be deleted as a housing land allocation and consideration should be given to the release of sites which are deliverable within the Plan period and which would be attractive to residential developers.
- 6.6 Our Clients respectfully urge the Inspector to give careful consideration to their representations and to amend the Plan in order that the Bedwas Colliery site be deleted as a residential land allocation in the Local Development Plan.

***KW Asbri Planning***

***March 2010***

## **APPENDIX 1**

Valuation and Development Appraisal prepared by Martin Lennon BSc MRICS of RE  
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