



Caerphilly County Borough Local Development Plan

**Statement of Common Ground on
HG1.05 Maerdy Garage Rhymney and
HG1.60 Tyn Y Waun Farm, Machen**

**Caerphilly County Borough Council
and
Environment Agency Wales**

Caerphilly County Borough Council submission

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Statement of Common Ground Between Caerphilly County Borough Council and Environment Agency Wales

HG1.05 Maerdy Garage Rhymney HG1.60 Tyn Y Waun Farm, Machen

1. Background

- 1.1 This statement is issued jointly by Environment Agency Wales (EAW) and Caerphilly County Borough Council (CCBC) and outlines an agreement of position in respect of the flood issues that relate to LDP allocations HG1.05 – Maerdy Garage adjacent to Maerdy House in Rhymney and HG1.60 Tyn Y Waun Farm in Machen. The statement sets out the agreed position of both parties in respect of the principle issues of contention.
- 1.2 In January 2010 the Council prepared a Supplementary Paper to Background Paper 13: Broad Level Flood Risk Assessment which sought to consider Areas Susceptible to Surface Water Flooding and the Revised TAN 15 Development Advice Maps (DAM) (ED20). All sites proposed for built development were assessed against the TAN 15 DAMs that were available at the time of plan preparation (dated 2004). EAW advice to CCBC through the LDP process has been based on the best available information. As set out within the Supplementary Paper, the DAMs were updated by the Welsh Assembly Government in December 2009 and sites were reassessed against this new information.
- 1.3 This reassessment indicated that HG1.05 Maerdy Garage, which was identified on the 2004 DAM as completely outside of the flood plain, was now partially within Zone C2 on the 2009 map (approximately 60% of the site). HG1.60 Tyn Y Waun Farm was covered by approximately 15% Zone C2 on the 2004 DAM, although the part of the site affected was outside of the proposed area for development. The 2009 DAM showed over 90% of the site to be in Zone C2.
- 1.4 The EAW were informally consulted on the Supplementary Paper and the comments received were included within the document where appropriate. However, it was considered necessary to discuss further how it was proposed to address the flood risk issues associated with these two sites. A meeting was held between the EAW and CCBC on 25th March 2010, which resulted in general agreement on the way forward. This joint statement of agreement reflects the discussion at the meeting.

2. HG1.05 Maerdy Garage, Rhymney

2.1 EAW Position

- 2.1.1 EAW raised no objection to the allocation of the Maerdy Garage site at Deposit consultation, as the site was outside of the flood plain at that stage. Supplementary Paper ED20 documented the Council's review of the 2009 DAMs, and indicated the risk of flooding to this site, which led EAW to provide advice in relation to this to CCBC in emails of 28th January 2010 and 23rd March 2010.

- 2.1.2 EAW indicated that the flood risk identified at this site is likely to be associated with the surcharging of the river Rhymney culvert upstream of the site. The flood outlines of the Environment Agency's Flood Map are based on generalised hydraulic model data, and makes general assumptions on channel/ culvert capacity. This model data should be used as a starting point for a more detailed hydraulic model that would inform a Flood Consequences Assessment (FCA) should any development proposals come forward.
- 2.1.3 Entec undertook a Strategic Flood Consequences Assessment for CCBC for the nearby Capital Valley/Maerdy Industrial Estate site. The Entec SFCA study concluded that the river Rhymney culvert should be opened up to alleviate the risk of flooding to the Capital Valley/Maerdy Industrial site. However this would increase the risk of flooding downstream, and so the feasibility of this mitigation option could not be established in the SFCA (this level of detail necessary to do this would not be available until a development proposal came forward). As a way forward EAW advised that at the strategic stage, development should only be considered in the areas not constrained by flood risk.
- 2.1.4 There were a number of improvements needed to the hydraulic model that informed the Entec SFCA study and so if it was to be used to inform the risk of flooding to this site, it should be reviewed to ensure modelling assumptions and conditions are appropriate for the site. However, should an assessment be undertaken for this site for the LDP, it is likely that the appropriate conclusion would be to avoid development in the areas indicated as being at risk of flooding (for the same reasons outlined in 2.1.3).
- 2.1.5 EAW are aware that the site may also be affected by land contamination. As this is likely to need remediation, it should be considered whether this together with the flood risk constraints impacts on the feasibility of the site in coming forward.
- 2.1.6 EAW therefore advise that the evidence shows (and so the LDP should consider) development only to be *deliverable* in the areas outside of that mapped by the 2009 DAM as zone C2. More detailed study (via FCA) may demonstrate more of the site to be developable in line with the guidance in TAN15, which enables a degree of *flexibility* with this site allocation.

2.2 CCBC Position

- 2.2.1 The Council considers that it was appropriate to allocate the Maerdy Garage site for housing as it was located outside of the flood plain at the time of plan preparation and also had planning consent (although this has now expired). As the 2009 DAM maps were released by the Welsh Assembly Government after the plan was submitted for examination, it was considered too late to undertake any further revisions to the SFCA already undertaken for the adjoining Capital Valley and Maerdy Industrial Estate sites, which already gave a broad indication of the extent of flooding on the site.
- 2.2.2 The Council recognises the need to react to this new information, and therefore the justification for this allocation has been set out within the Supplementary Paper. It is considered that, even in the worst case scenario where development is avoided on the part of the site within Zone C, there is sufficient land available to allow a significant development to go ahead, with an indicative capacity of 8 dwellings being identified on the basis of average

densities. Whilst this is under the threshold of 10 dwellings used to determine whether a site is large enough to be allocated, the site may well come forward for a higher than average density and/or an FCA at planning application stage may demonstrate that more of the site could accommodate development in line with the guidance in TAN 15.

- 2.2.3 As the site had a valid planning consent for housing and was not within Zone C2 at the time that the plan was placed on Deposit, the requirement for an FCA to be submitted as part of any future planning application was not identified in Appendix 7 or Appendix 8 of the Written Statement. However, Appendix 8 does state *“where sites already have the benefit of planning consent, the information necessary to determine the application will already have been submitted to the local authority. However, in the event of any future applications or renewals of planning consent, it may be necessary for additional survey information to be submitted to reflect changing circumstances and planning guidance. Developers are therefore advised to enter into pre-application discussions with the local authority to determine whether additional surveys will be required.”* The need for an FCA to be undertaken to support any future planning applications will therefore be requested in order to reflect the changing circumstances in relation to flood risk on the site.

2.3 The Agreements

- 1) It was agreed that part of the site was at risk of flooding, and that this would restrict the area available for development, except where a developer demonstrated to the satisfaction of EAW and CCBC via a FCA that the proposed development was in line with the guidance in TAN15
- 2) It was agreed that in line with TAN15, a FCA should be carried out should any planning applications be submitted for development at the site.

2.4 Agreed Positions

- 1) The Council maintains its position that HG1.05 Maerdy Garage should be allocated within the LDP.
- 2) Agreement points 1 and 2 address EAW's principle concerns with this site allocation.

3 HG1.60 Tyn Y Waun Farm, Machen

3.1 EAW Position

- 3.1.1 EAW raised no objection to the allocation at the Deposit stage, as the site benefited from an existing permission (and only a small portion of the site was indicated as being at risk of flooding). Supplementary Paper ED20 documented the Council's review of the 2009 DAMs, and indicated the risk of flooding to this site had significantly increased. The 2004 DAMs showed approximately 15% of the site to be at risk of flooding, and the 2009 DAMs showed approximately 90% of the site to be at risk of flooding. This led EAW to provide advice in relation to this to CCBC in emails of 28th January 2010 and 23rd March 2010. EAW advised CCBC that the site was at risk of flooding from the River Rhymney, which is approximately 3 to 4 metres below the top of the bank forming the footpath along the northern boundary of this site. It is

known that the river does come out of bank immediately upstream of Forge Road Bridge, and floods the road and one or two cottages (e.g. in 1998 flood event). This could flow downstream along the footpath and flood the site, although an assessment would be the appropriate way to determine the risk. EAW would expect a detailed hydraulic model based on the available generalised Environment Agency data to inform a flood consequences assessment to assess the risk of development at this site.

- 3.1.2 In the absence of any detailed information and assessment of the risk and consequences of flooding, EAW can only conclude is that the site is at risk of flooding, and there is no information/evidence available to suggest that the site could in any way accommodate further development. On this basis EAW advised CCBC that it is recommended that an assessment is carried out or that the site is removed from the LDP.

3.2 CCBC Position

- 3.2.1 Paragraph 3.4.2 of the Supplementary Paper indicated that the site had previously had reserved matters planning consent for 10 dwellings, although this had now expired, but full consent was still valid for 4 dwellings, which sought to amend the original layouts.
- 3.2.2 Further investigation of this issue indicated that the position as stated in the Supplementary Paper was not entirely correct as it is the view of the Planning department that the reserved matters application for 10 dwellings has been implemented as earthworks have been undertaken on the site, thereby constituting a material start to development. The consent had not, therefore, expired.
- 3.2.3 Given that this consent has been implemented, there is no opportunity to undertake any further flood risk assessment as the dwellings can be completed without this information. In light of the planning status of this site, CCBC maintain their position that the site should remain allocated.

3.3 The Agreements

- 1) It was agreed that as the planning consent has been implemented, the principle of development at the site has been established. An assessment of flood risk at this stage of the LDP process would not change this outcome.
- 2) It was agreed that if the consented dwellings are not completed, and a new planning application is submitted for development at the site, there would be a need for a detailed Flood Consequences Assessment (FCA) to be undertaken in line with TAN15. This is confirmed in Appendix 7 of the Written Statement (page A7.21) which states "*should any new applications be submitted in the site, it will be necessary for an acceptable Flood Consequences Assessment to accompany any future application*".
- 3) If a new planning application was submitted, it would not be clear until a FCA is undertaken whether ten dwellings would be achievable on this site, and so should be looked at when monitoring/reviewing the LDP.

3.4 Agreed Positions

- 1) The Council maintains its position that HG1.60 Tyn Y Waun Farm, Machen should remain allocated into the plan.
- 2) Agreement points 1 to 3 address EAW's principle concerns with this site allocation.