



Ein cyf/Our ref: qA1286266

Mr Geraint John  
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10 October 2017

Dear Mr John

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION BY LLANMOOR DEVELOPMENT CO. LTD FOR RESIDENTIAL  
DEVELOPMENT AND ASSOCIATED HIGHWAY ACCESS, PROVISION OF AN ON-SITE  
SCHOOL AND ANCILLARY USES AND WORKS ON LAND AT YSTRAD BARWIG ISAF,  
CROWN HILL, LLANTWIT FADRE, PONTYPRIDD.**

1. Consideration has been given to the report of the Inspector, Declan Beggan BSc (Hons) MSc DipTP DipMan MRTPI, who held an Inquiry on 16 and 17 May 2017 in respect of your client's planning application, Local Planning Authority reference 15/1295/13.
2. On 2 November 2016, in accordance with Section 77 of the Town and Country Planning Act 1990 ("the 1990 Act"), the planning application was called in for decision by the Welsh Ministers. Under the provisions of the Government of Wales Act 2006, the power to determine applications under Section 77 of the 1990 Act has been transferred to the Welsh Ministers, these functions have been exercised by me as Cabinet Secretary for Environment and Rural Affairs.

3. In exercising their functions, as part of carrying out Sustainable Development in accordance with the Well-being of Future Generations Act (“the FG Act 2015”), section 2 of the Planning (Wales) Act 2015 requires the Welsh Ministers, as a public body, to ensure the development and use of land contributes towards improving the economic, social, environmental and cultural well-being of Wales. In order to act in this manner, the Welsh Ministers have taken into account the ways of working set out in section 4 of ‘SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance on the Future Generations Act 2015’ through examination by way of a Hearing in accordance with The Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003.
4. The Inspector held an Inquiry on 16 and 17 May and made a site visit on 17 May. The Inspector recommends planning permission be refused. A copy of the Inspector’s report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, relate to the IR.

### **Main Issues**

5. The Inspector identifies the following main issues:
  - Whether the proposed development is justified in a C2 flood zone, with particular reference to TAN 15 and policies AW2 and AW10 of the LDP.
  - Whether the proposal would provide an appropriate site for housing having regard to planning policies which seek to strictly control new development outside settlement policy boundaries.
  - The effect of the development on the character and appearance of the area.
  - Whether there are other material considerations which would justify granting planning permission, in particular with regard to housing land supply and the sustainable credentials of the development.

### Flooding

6. The Inspector outlines the relevant local and national planning policy framework and notes specific guidance is provided in Technical Advice Note 15, “Development and Flood Risk” (TAN 15). TAN 15 defines all residential premises as highly vulnerable development. Approximately 13% of the application site is located in an area of the floodplain classed as C2 on the Development Advice Map, which supplements TAN 15. Zone C2 relates to, “areas of the floodplain without significant flood defence infrastructure”. The Inspector notes figure 1 of TAN 15 states, in Zone C2, only less vulnerable development should be considered subject to the application of justification tests and “importantly, it states highly vulnerable development **should not** be considered” (IR 102 - 105) – the emphasis is provided by the Inspector in the IR.
7. Both the applicant and the Local Planning Authority (“the parties”) contend paragraph 11.1 of TAN 15 makes a clear and fundamental distinction between land wholly within Zone C2 and land partly within it. Paragraph 11.1 states, “Where a site falls partially within Zone C it will be a matter for the planning authority to judge whether to apply section 6 (*the justification tests*), although it is probable that an assessment in accordance with section 7 and appendix 1 will be required (*assessing the consequences of flooding*)” (IR 106).

8. The Inspector disagrees with the parties in terms of their interpretation of paragraph 11.1 of TAN 15. He notes paragraph 6.2 of TAN 15 leaves no doubt as to what is required and is quite categorical, highly vulnerable development, such as the residential development proposed, should not be permitted in Zone C2 of the floodplain (IR 106-107).
9. The Inspector considers he does not need to examine whether or not the proposed development can be justified having regard to the criteria in paragraph 6.2 or the tests in Section 7 relating to an assessment of the flood consequences. He appreciates only 13% of the application site is in Zone C2, however, the site has to be considered in its totality and paragraph 6.2 of TAN 15 makes no distinction regarding the percentage of the site affected. Also the Inspector states the illustrative masterplan shows residential development in the Zone C2 area and, whilst in terms of the overall site area this may not appear to be substantial, it has the potential to accommodate a significant number of dwellings. On this issue he concludes the proposal is, therefore, contrary to advice in TAN 15 and does not represent sustainable development as supported by Planning Policy Wales (PPW) (IR 108).
10. The Applicant refers to the lack of objection from Natural Resources Wales (NRW) which did not challenge the Council's interpretation of Section 6 of TAN 15. However, the Inspector highlights a letter, dated 9 January 2014, sent by the then Chief Planner at the Welsh Government to all Chief Planning Officers in Local Planning Authorities. The Inspector considers the letter makes it clear the justification tests in TAN 15 are a matter for the Local Planning Authority to undertake with NRW providing expert advice on flooding consequences (IR 109). I consider the Inspector is correct, NRW's role is to assess flooding consequences, not to interpret or apply national planning policy.
11. The Inspector concludes the proposed development would be contrary to Local Development Plan (LDP) Policy AW2, which aims to only support development proposals in sustainable locations, and national planning policy in PPW and TAN 15 (IR 110). I agree with the Inspector's conclusion on this issue.
12. I note the Inspector has considered the proposed development against the requirements of paragraph 11.1 of TAN 15 in case I disagree with his assessment of the flooding issues (IR 111 – 118). However, I fully support the Inspector's conclusions on the flooding issue and agree paragraph 11.1 of TAN 15 is not applicable to this application as paragraph 6.2 of TAN 15 clearly states, "...highly vulnerable development and Emergency Services in Zone C2 should not be permitted". The justification tests in paragraph 6.2 of TAN 15 do not apply to highly vulnerable development in Zone C2.

Whether the proposal would provide an appropriate site for housing having regard to planning policies which seek to strictly control new development outside settlement policy boundaries.

13. Both parties accept the proposed development conflicts with LDP policy AW2 as it is located outside the settlement boundary as defined by the LDP and is partially located in a Zone C2 floodplain. The parties maintain any conflict with LDP Policy AW2 is outweighed by other material considerations (IR 119-120). The Inspector considers other material considerations in his overall balancing exercise (IR 136-140).
14. The Inspector considers the site is sustainable in terms of access to schools, shops, amenities and public transport. He also considers it performs well in terms of infrastructure, highway safety, habitat and landscape conservation. However, due to its location outside the defined settlement boundary, it would conflict with national and local planning policies relating to development outside settlement boundaries (IR 121-122). I am satisfied with the Inspector's consideration of this issue.

The effect of the development on the character and appearance of the area.

*Character*

15. The planning application was supported by a Landscape and Visual Impact Assessment (LVIA) (IR 123).
16. The Inspector notes, in terms of LANDMAP (a Wales-wide landscape assessment which is organised by Natural Resources Wales (NRW) in partnership with the Welsh local authorities), the site falls within the Hendre and Creigiau Lowlands Visual and Sensory Aspect Area and is in close proximity to three other landscape character areas, Llantrisant, Church Village and Creigiau Villages (IR 124).
17. The Inspector provides an overview of each character area (IR 125-127) and notes LDP Policy AW5 supports development proposals where, amongst other criteria, there is no unacceptable effect on the character and appearance of the site and the surrounding area and where appropriate existing site features of the built and natural environment value would be retained (IR 128).
18. In terms of character the Inspector concludes, whilst the proposed development would inevitably result in the loss of an area of open countryside, the illustrative masterplan indicates the majority of trees and hedgerows would be retained as would marshy grassland in the central part of the site, which designated as a Site of Importance for Nature Conservation (SINC). With these factors in mind, the Inspector considers the proposal would have a neutral effect on the landscape character areas (IR 129).

19. The Inspector notes the concerns of third parties regarding the impact of the proposed development on the character of the area. However, whilst he acknowledges the proposed development would likely to be seen from medium to distant vantage points, the views would be limited due to local topography and existing landscaping and would generally be seen in the context of the existing built form of nearby settlements, including Llantwit Fardre and Beddau (IR 130). I have no reason to disagree with the Inspector's assessment of the impact of the proposed development on landscape character.

#### *Visual Impact*

20. The Inspector states the illustrative masterplan and Design and Access Statement indicate in broad terms a scheme comprising two and three storey dwellings. The Inspector notes the final design of the dwellings can be controlled at reserved matters stage. The illustrative masterplan shows extensive areas of green infrastructure in the form of a central wetland and public open space area, along with the retention of existing hedges and trees (IR 131).
21. Whilst the proposal would be clearly visible within the landscape, especially from the public rights of way across the site and the community path to the south, the Inspector considers these views are unlikely to be sustained over long periods due to local topography and the screening effects of existing vegetation. Therefore, their effect on visual amenity would be minor and not significant (IR 132).
22. The Inspector observed the proposed development would be visible from elevated sites to the north within Llantwit Fardre and to the south from the designated "Ridgeway Walk". He considers, due to the intervening distances involved, the presence of existing built development and considering significant parts of the site would remain undeveloped, the impact on visual amenity from these vantage points would be minor and not significant (IR 133).
23. The proposed development would be visible from close public viewpoints and from a number of existing residential properties adjoining the northern boundary of the site. However, the Inspector considers any impact, due to the screening effects of existing and proposed landscaping, the proposed set back distances and height of the dwellings, would not be unacceptable (IR 134).
24. On this main issue, the Inspector concludes the proposed development would not be detrimental to the character and appearance of the area, both in terms of landscape and visual impacts. Therefore, the proposal would not be in conflict with LDP Policy AW5 (IR 135). I have no reason to disagree with the Inspector's assessment.

#### Other considerations

25. The Council cannot demonstrate a five year housing land supply. The Inspector notes the shortfall is significant. The Joint Housing Land Availability Study (JHLAS) in 2016 states the housing land supply figure is 1.5 years, whilst the draft JHLAS, dated May 2017, estimates it has fallen to 1.3 years (IR 136).

26. The Inspector notes TAN 1 advises, when housing land supply is below the five year requirement, “the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies”. Although the proposed development does not comply with development plan and national planning policies, the Inspector considers the extent of the shortfall weighs heavily in favour of the development, which would deliver a significant number of dwellings, including affordable units (IR 137-138). I agree with the Inspector on this matter.
27. The proposed development would result in the loss of good quality Grade 3a agricultural land, approximately 5% of the gross site area. However, the Inspector is satisfied, based on the small amount of Grade 3a agricultural land on the site and given it is distributed in different parcels across the site, its protection is impractical when the proposed development is considered in its totality (IR 139). I am content with the Inspector’s consideration of this issue.
28. The Inspector notes part of the site is within a Sandstone Resource Area, as designated in the LDP. LDP Policy AW14 safeguards mineral resources from development which would unnecessarily sterilise them or hinder extraction. However, the Inspector considers, bearing in mind the extent of sandstone resources in Rhondda Cynon Taff, the small amount of mineral resources affected and the fact these mineral resources are already sterilised by buffer zones around existing residential development, the loss of mineral resources does not affect the outcome of the application (IR 140). I have no reason to disagree with the Inspector.

#### *Other Matters*

29. The Inspector notes most of the concerns raised by local residents and other interested parties have been addressed under the main issues, or the recommended conditions. Other detailed concerns can be dealt with at reserved matters stage (IR 141).
30. The Inspector is satisfied the proposed development scheme would have no adverse highway impacts, noting the Council raised no objection to the scheme (IR 142). He also considers the site lies in a sustainable location in terms of access to non-car modes of transport and accessibility to local services, with measures to encourage non-car related trips, which include the provision of a school on site. He is content there is no evidence to indicate existing public rights of way would not be safeguarded or retained (IR 143).
31. In terms of ecology, the Inspector notes NRW did not object to the application, subject to conditions relating to the protection and enhancement of ecological interests. Also, he has no reason to take a contrary view to the Council’s ecologist who is satisfied biodiversity in the area can be maintained (IR 144).
32. Regarding residential amenity, the Inspector is satisfied the site could accommodate a form of development which would safeguard adjacent residential amenity in terms of privacy or physical proximity (IR 145).

33. Neither the Council's Public Health and Protection Division nor NRW raised any objections concerning health impacts. In terms of air quality, the Council's planning report states the impacts of the proposed development are only short-term and can be addressed by the imposition of conditions. The Inspector was not provided with any substantive evidence to take a different view (IR 146).
34. The Inspector was not presented with any substantive evidence to suggest local schools, sewers or water supply could not accommodate the proposed development. He notes a local doctor's surgery raised concerns regarding the ability to cope with additional patients, however, the Local Health Board, which was consulted on the proposal, chose "not to offer any comment or concern" (IR 147).
35. I am satisfied with the Inspector's consideration of these other matters.

### Overall Conclusions

36. The Inspector notes, in line with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, a decision on the application is required to be made in accordance with the development plan unless material considerations indicate otherwise (IR 150).
37. The Inspector considers, whilst the site is outside the settlement boundary, it is in a sustainable location in terms of access to services, amenities and public transport and would not cause unacceptable harm to its surroundings. The scheme would provide much needed housing and a new primary school. I agree with the Inspector, all these factors weigh in favour of the proposed development (IR 151).
38. In terms of flood risk the Inspector states TAN 15 is quite clear highly vulnerable development should not be permitted within Zone C2. PPW and LDP Policy AW2 reinforce this position and the proposal would not represent sustainable development due to its unjustified location within a C2 floodzone (IR 152 – 153).
39. Whilst the proposed development would result in the loss of some Grade 3a agricultural land, contrary to national planning policy, the Inspector considers the extent to be minimal. He also notes the mineral reserves on site are already sterilised due to their proximity to residential development. For these reasons, he considers the loss of either of these resources would not justify withholding planning permission should the Welsh Ministers deem the development acceptable in all other aspects (IR 154).
40. The Inspector concludes none of the benefits or other matters in favour of the proposal, either individually or combined, are outweighed by the clear conflict with planning policy in terms of flooding. He recommends planning permission be refused (IR 155-156).
41. Subject to my comments in paragraphs 6 – 40, I agree with the Inspector's recommendation, for the reasons given by him, to refuse planning permission.

## Formal Decision

42. For the reasons given, in exercise of the power referred to in paragraph 2 of this decision letter, I hereby refuse planning permission for outline planning application 15/1295/13.
43. In reaching this decision I note the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015 and I consider the decision accords with the sustainable development principle set out in the FG Act 2015. In accordance with section 3(2) of the FG Act 2015 and the well-being objectives of the Welsh Ministers, the decision will help to “Drive sustainable growth and combat climate change”.
44. A copy of this letter has been sent to Rhondda Cynon Taff County Borough Council and to those attending the Inquiry who asked to be informed of the decision.

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping initial 'L' and 'G'.

### **Lesley Griffiths AC/AM**

Ysgrifennydd y Cabinet dros yr Amgylchedd a Materion Gwledig  
Cabinet Secretary for Environment and Rural Affairs