

TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING GENERAL PERMITTED DEVELOPMENT ORDER 1995
PERMISSION FOR DEVELOPMENT

To: Hammerson Property Ltd, c/o White Young Green Planning, Academy House, 36 Poland Street, London

WHEREAS you did on the 8th day of December 2004
make application in writing for permission to develop: Hammerson Property Ltd, Units 8, 9A, 9B and 9C, Cyfarthfa
Retail Park, Swansea Road.

short particulars of the application being as follows:-

Name of the Applicant

Hammerson Property Ltd
c/o White Young Green Planning
Academy House
36 Poland Street
London

Description of Proposed Development

Amendment to Condition 5 on planning permission
P/03/0524 to allow the sale of non-food goods
(bulky and non bulky) from Units 8, 9A, 9B and 9C
and the installation of mezzanine floorspace in Units
8 and 9A.
(Full)

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL as the Local Planning authority hereby **PERMIT** the
proposed development to be carried out in accordance with the plans submitted with the said Application, subject to
the development being begun on a date which is not later than **five years** from the date of this permission and
subject to compliance with the condition(s) specified below:

CONDITIONS

See attached sheet.

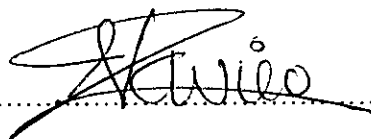
THE REASONS for the Council decision to impose the conditions herein before specified are:-

See attached sheet.

Date:

29 APR 2005

Signed:.....



(Head of Planning)

(Please See Note on Back)

PLAN No. P/04/0633

CONDITIONS

1. This permission shall relate to the development as indicated on Drawing No's SP 1066(05) 200, 201, 202 Revision D, 203 Revision A, 204, 205, 206 Revision B, 207 Revision A, 208, 209, 210, 211, 212, 213, 214 and 215 and the conditions noted below.
2. The first floor of Unit 1 and Units 2-7, 8, 9a, 9b, 9c, 9d and 10 as shown on the approved layout plan (Drawing No. SP 1066 (05) 202 Revision D shall be used for the sale of non-food goods only and for no other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) nor in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
3. The ground floor of Unit 1 as shown on the approved layout plan (Drawing No. SP 1066(05) 202 Revision D) shall be used for health and fitness purposes only, and for no other purpose within Class D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) nor in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
4. Units 7 and 9d (with its associated covered builders' yard and garden centre) as shown on the approved layout plan (Drawing No. SP 1066(05) 202 Revision D) shall be used for the sale of bulky, non-food goods only, namely furniture, DIY (including building materials and garden centre products), carpets and other floor coverings, electrical goods, motor accessories and cycles.
5. Unless otherwise permitted by virtue of the current or other consents, no mezzanine floors installed within the units hereby approved shall be used for retail sales purposes, other than units 5, 8 and 9A.
6. Unless otherwise permitted by virtue of the current planning application, none of the retail units hereby approved shall be subdivided so that the gross retail floorspace of a single user/unit is less than 1,858 sq. metres (20,000 sq. ft).
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 3, Units A, B and C, as indicated on the approved site layout plan (Drawing No. SP 1066(05) 202 Revision D), shall only be used for purposes falling within Class A3 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), nor in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
8. No construction works shall be undertaken outside the following times: 0700-1900 hours, Monday- Friday, 0800-1700 hours Saturday, nor at any time on Sundays/Public Holidays.
9. The rating level of noise emitted from any fixed plant shall not exceed the existing background noise level by more than 0dB(A) at the nearest noise sensitive locations.
10. No deliveries shall be taken in nor despatched from the service yard of Units 9a, 9b, 9c, 9d and its associated covered builders' yard and garden centre outside the following times: 0700-2300 hours on any day unless otherwise agreed in writing by the Local Planning Authority.



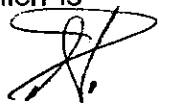
PLAN No. P/04/0633

CONDITIONS (Continued)

11. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992, all signage on the retail units shall be limited to those signage zones identified on the approved Site Section A-C, D-F plans (Drawing No's SP 1066(05) 203 Revision A; 204).

REASONS

1. To clearly define the scope of this permission.
- 2-7. To protect the viability and vitality of Merthyr Tydfil and other town centres within the defined Primary Catchment Area as considered relative to the Retail Impact Assessment which accompanied this application.
- 8-10. To protect the residential amenities of nearby residents.
11. To protect the visual amenities of the area, to ensure a co-ordinated approach to advertising and to ensure the maintenance of the high standard of development which is hereby approved.



MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

INTERNAL MEMORANDUM

To: Head of Planning
FAO Michelle Hemmings ✓
Head of Estates
FAO Louise Hopkins

From: Director of Customer Corporate Services

Ref:

Ref: JPR/S106/Cyfarthfa/PED

Ask For: Jyoti Preet-Ryatt

Date: 9 May, 2005

Tel.Ext 5301

Subject: ***UNILATERAL OBLIGATION: SECTION 106 TOWN AND COUNTY PLANNING ACT 1990 RELATING TO LAND AT CYFARTHFA RETAIL PARK, MERTHYR TYDFIL***

Please find enclosed a copy of the Deed of Unilateral Obligation relating to land at Cyfarthfa Retail Park dated 29th April 2005.



for **DIRECTOR OF CUSTOMER CORPORATE SERVICES**

Enc.

Merthyr Tydfil C.B.C.	
Date Rec'd Letter No. 12308	
10 MAY 2005	
FOR CJ A	PASS TO
FILE REF	

DATED 29 April 2005

HAMMERSON PROPERTY LIMITED

- made to -

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

UNILATERAL OBLIGATION

Under Section 106 Of The Town And Country Planning Act 1990

relating to

land at Cyfartha Retail Park, Merthyr Tydfil

THIS DEED OF UNILATERAL OBLIGATION is made the 29th day of April 2005

BY:-

- (1) **HAMMERSON PROPERTY LIMITED** (Company Registration No. 04261753) of 100 Park Lane, London W1K 5JH (the "**Owner**");

AND IS MADE TO:-

- (2) **MERTHYR TYDFIL COUNTY BOROUGH COUNCIL** of Ty Keir Hardie, Riverside Court, Avenue De Clichy, Merthyr Tydfil CF47 8XF (the "**Council**").

WHEREAS:-

- (A) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 for the area within which the Site is situate.
- (B) The Owner is the owner in fee simple in possession of the Site.
- (C) On 28 November 2003, the Council granted planning permission (reference number P/03/0524) for the development of the Cyfartha Retail Park, Swansea Road, Merthyr Tydfil (the "**November 2003 Permission**").
- (D) On 26 November 2004, the Owner made an application under Section 73 of the Act (reference number 04/0633) to vary condition 5 attached to the November 2003 Permission and to allow for the installation of mezzanine floor space within Units 8 and 9A (the "**Section 73 Application**").
- (E) The Owner agrees by this Unilateral Obligation to make a contribution towards the provision of town centre and transportation improvements in the vicinity of the Merthyr Tydfil town centre.
- (F) The planning obligations and covenants in this Deed are conditional, amongst other things, upon the grant of the Revised Permission.

NOW THIS DEED WITNESSETH as follows:-

1. **DEFINITIONS**

- 1.1 In this Deed in addition to the parties defined above, the following words and expressions shall, where the context so requires or admits, have the following meanings:-

"Act" means the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991;

"Contribution" means a contribution in the sum of one hundred thousand pounds (£100,000) including Value Added Tax ("VAT") towards the provision of town centre and transportation improvements in and around

	Merthyr Tydfil town centre;
"Council"	includes any successor body in which the functions of the Merthyr Tydfil County Borough Council as local planning authority shall be vested;
"Date of Occupation of the Revised Development"	shall occur when either Unit 8, 9A, 9B or 9C within the Revised Development is first occupied for retail sales purposes but for the avoidance of doubt shall not include occupation of such units for the purposes of works carried out prior to or during construction or installation of the mezzanine floors, fitting out, commissioning, advertising, marketing, security, management of the Site or parking for those purposes and "Occupation of the Revised Development" and "Occupy the Revised Development" shall be construed accordingly;
"Owner"	means the Owner and includes its successors in title and assigns;
"Revised Permission"	means the planning permission to be granted pursuant to the 73 Application in the form attached at Schedule 1;
"Revised Development"	means the development authorised by the Revised Permission;
"Section 73 Application"	has the meaning set out in Recital D hereto;
"Site"	means all that land registered at HM Land Registry under title number CYM168097 and which is shown edged red (not including the land tinted green on the plan) for identification purposes only, on the HM Land Registry filed plan bearing number CYM16807 attached at Schedule 2;

- 1.2 Words denoting the singular shall include the plural and vice versa words denoting any gender shall include all genders and words denoting persons shall include bodies corporate and vice versa.
- 1.3 Any reference to any enactment regulation or order includes any statutory modification or re-enactment thereof for the time being in force.
- 1.4 The headings are for ease of reference only and shall not affect the construction or interpretation hereof.

- 1.5 References to Clauses and Schedules and Recitals are to clauses of and schedules and recitals to this Deed and references in a Schedule to a Part or a Paragraph are to a Part or Paragraph of that Schedule.

2. STATUTORY PROVISION

The obligations in this Deed are covenants which:-

- (a) are entered into pursuant to the provisions of Sections 106 of the Act and Section 111 of the Local Government Act 1972;
- (b) are planning obligations for the purposes of Sections 106 of the Act;
- (c) are entered into with intent to bind the Owner's interest in the Site and each and every part thereof into whosoever hands the same may come;
- (d) are enforceable by the Council as local planning authority;
- (e) are executed by the Owner as a Deed.

3. DATE OF DEED COMING INTO FORCE AND ISSUE OF PLANNING PERMISSION

- 3.1 The Owner covenants to the Council to serve written notice upon the Council advising it of the Date of Occupation of the Revised Development at least seven days prior to the Date of Occupation of the Revised Development.
- 3.2 All Clauses of this Deed shall come into force on the date of this Deed except for Clause 4, which Clause shall come into force on the later of (a) the Date of Occupation of the Revised Development as notified to the Council under Clause 3.1 hereof and (b) the date of grant of the Revised Permission.

4. COVENANTS AND OBLIGATIONS

- 4.1 The Owner covenants to pay to the Council on or before the Date of Occupation of the Revised Development the Contribution.
- 4.2 The obligation referred to in Clause 4.1 above is enforceable by the Council.

5. EXPIRATION MODIFICATION VARIATION OR AMENDMENT OF PLANNING PERMISSION

- 5.1 If the Revised Permission shall expire before the Date of Occupation of the Revised Development or shall at any time be revoked this Deed shall forthwith determine and cease to have effect save in respect of any payments which have fallen due or obligations which were due to be complied with prior to such expiry or revocation.
- 5.2 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Revised Permission or modification, variation or amendment thereof) granted after the date of this Deed and this Deed shall not apply to development carried out under any planning permission other than the Revised Permission.

6. **ARBITRATION**

- 6.1 If any dispute or difference shall arise between the parties as to the construction or meaning of this Deed or their respective rights, duties and obligations under this Deed or as to any matter arising out of or in connection with the subject matter of this Deed including the refusal or withholding of any consent, approval or agreement and unless this Deed expressly provides otherwise, such dispute or difference may, subject to the Council's consent as provided for in Clause 6.2 below, on written notice given by any party at any time and served on the others be referred to and determined by an arbitrator (who shall act in accordance with the provisions of the Arbitration Act 1996 agreed between the parties or in default of agreement to be appointed by the President for the time being of the Law Society.
- 6.2 Where the Council does not consent to any dispute or difference under Clause 6.1 above being referred to an arbitrator within 14 days of a request by the Owner, such dispute or difference shall be subject to the jurisdiction of the courts.

7. **NOTICES**

- 7.1 Any notice required to be given under this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class recorded delivery post.

7.1.1 The address for service of any such notice upon the Owner shall be:

c/o Hammerson Property Limited

100 Park Lane

London W1K 7AR

For the Attention of: Michael Neal

or such other address for service as shall have been previously notified by the Owner in writing to Council.

8. **RELEASE**

No person shall be liable for breach of a covenant or obligation contained in this Deed after it shall have parted with all interest in the Site or in the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

9. **REGISTRATION OF THIS DEED**

- 9.1 The Owner consents to this Deed being registered by the Council as a local land charge in the register of local land charges maintained by the Council.
- 9.2 The Owner shall forthwith after the date of this Deed apply to the Chief Land Registrar to register this Deed in that part of the register wherein the Owner's title to the Property is registered and will furnish to the Council forthwith on written demand thereof office copies of such title to show the entry of this Deed in the Charges Register of the same.

10. **COUNCIL'S LEGAL FEES**

The Owner shall pay to the Council within 14 days of the date of this Deed the sum of £500 (including any VAT) in respect of the Council's legal fees in reviewing this Deed.

11. **DATE**

This Deed is delivered on the date written at the start of this Deed.

IN WITNESS whereof the Owner has executed this Deed the day and year first before written.

SCHEDULE 1
DRAFT REVISED PERMISSION

Form N1 (AE)

Code No. P/04/0633

TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING GENERAL PERMITTED DEVELOPMENT ORDER 1995
PERMISSION FOR DEVELOPMENT

To: Hammerson Property Ltd, c/o White Young Green Planning, Academy House, 36 Poland Street, London

WHEREAS you did on the 8th day of December 2004
make application in writing for permission to develop: Hammerson Property Ltd, Units 8, 9A, 9B and 9C, Cyfarthfa
Retail Park, Swansea Road.

short particulars of the application being as follows:-

Name of the Applicant

Hammerson Property Ltd
c/o White Young Green Planning
Academy House
36 Poland Street
London

Description of Proposed Development

Amendment to Condition 5 on planning permission
P/03/0524 to allow the sale of non-food goods
(bulky and non bulky) from Units 8, 9A, 9B and 9C
and the installation of mezzanine floorspace in Units
8 and 9A.
(Full)

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL as the Local Planning authority hereby **PERMIT** the
proposed development to be carried out in accordance with the plans submitted with the said Application, subject to
the development being begun on a date which is not later than five years from the date of this permission and
subject to compliance with the condition(s) specified below:

CONDITIONS

See attached sheet.

THE REASONS for the Council decision to impose the conditions herein before specified are:-

See attached sheet.

Date:

Signed:

(Head of Planning)

(Please See Note on Back)

NOTES

- (1) If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, or to grant permission subject to conditions, he/she may appeal to The National Assembly for Wales in accordance with Section 78(i) of the Town and Country Planning Act 1990, within SIX MONTHS of the receipt of this Notice. (Appeals must be made on a form which is obtainable from The Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ). The National Assembly for Wales has the power to allow a longer period for the giving of notice of appeal but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The National Assembly for Wales is not required to entertain an appeal if it appears to it that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (2) If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by The National Assembly for Wales, and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he/she may serve on the Council in which the land is situated, a purchase notice requiring the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- (3) In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by The National Assembly for Wales on appeal or on a reference of the application to it. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

N.B. INFORMATIVE

Building materials delivered to the site of application shall not be deposited nor stored on the highway unless the prior consent of this Authority's Engineering Manager has been obtained.

PLAN No. P/04/0633**CONDITIONS**

1. This permission shall relate to the development as indicated on Drawing No's SP 1066(05) 200, 201, 202 Revision D, 203 Revision A, 204, 205, 206 Revision B, 207 Revision A, 208, 209, 210, 211, 212, 213, 214 and 215 and the conditions noted below.
2. The first floor of Unit 1 and Units 2-7, 8, 9a, 9b, 9c, 9d and 10 as shown on the approved layout plan (Drawing No. SP 1066 (05) 202 Revision D) shall be used for the sale of non-food goods only and for no other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) nor in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
3. The ground floor of Unit 1 as shown on the approved layout plan (Drawing No. SP 1066(05) 202 Revision D) shall be used for health and fitness purposes only, and for no other purpose within Class D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) nor in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
4. Units 7 and 9d (with its associated covered builders' yard and garden centre) as shown on the approved layout plan (Drawing No. SP 1066(05) 202 Revision D) shall be used for the sale of bulky non-food goods only, namely furniture, DIY (including building materials and garden centre products), carpets and other floor coverings, electrical goods, motor accessories and cycles.
5. Unless otherwise permitted by virtue of the current or other consents, no mezzanine floors installed within the units hereby approved shall be used for retail sales purposes *other than in Units 5, 8 and 9a.*
6. Unless otherwise permitted by virtue of the current planning application, none of the retail units hereby approved shall be subdivided so that the gross retail floorspace of a single user unit is less than 1,858 sq. metres (20,000 sq. ft).
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 3, Units A, B and C, as indicated on the approved site layout plan (Drawing No. SP 1066(05) 202 Revision D), shall only be used for purposes falling within Class A3 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), nor in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
8. No construction works shall be undertaken outside the following times: 0700-1900 hours, Monday- Friday, 0800-1700 hours Saturday, nor at any time on Sundays/Public Holidays.
9. The rating level of noise emitted from any fixed plant shall not exceed the existing background noise level by more than 0dB(A) at the nearest noise sensitive locations.
10. No deliveries shall be taken in nor despatched from the service yard of Units 9a, 9b, 9c, 9d and its associated covered builders' yard and garden centre outside the following times: 0700-2300 hours on any day unless otherwise agreed in writing by the Local Planning Authority.

PLAN No. P/04/0633**CONDITIONS (Continued)**

11. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992, all signage on the retail units shall be limited to those signage zones identified on the approved Site Section A-C, D-F plans (Drawing No's SP 1066(05) 203 Revision A; 204).

REASONS

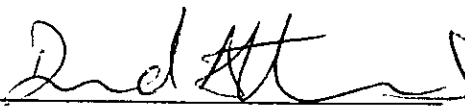
1. To clearly define the scope of this permission.
- 2-7. To protect the viability and vitality of Merthyr Tydfil and other town centres within the defined Primary Catchment Area as considered relative to the Retail Impact Assessment which accompanied this application.
- 8-10. To protect the residential amenities of nearby residents.
11. To protect the visual amenities of the area, to ensure a co-ordinated approach to advertising and to ensure the maintenance of the high standard of development which is hereby approved.

SCHEDULE 2

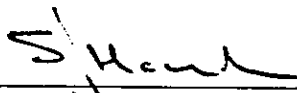
SITE PLAN

Executed as a Deed by
HAMMERSON PROPERTY
LIMITED by:

)
)
)



Director



Director/Secretary

25/04/17

visual amenity and to maintain and/or enhance the character of the watercourse and to provide undisturbed refuges for wildlife using the watercourse corridor.

14. A Landscaping Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The Landscape Management Plan shall be carried out as approved. *Reason: To ensure an adequate standard of landscaping in the interests of residential and visual amenity*
15. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development, or in accordance with the programme agreed in writing with the Local Planning Authority. *Reason: To ensure an adequate standard of landscaping in the interests of residential and visual amenity*

HIGHWAYS

16. The demolition of the B4285 (Library) Bridge shall not commence until details of a replacement pedestrian/cycle bridge at Bridge Street have been submitted to and approved in writing by the local planning authority. The design shall be such as to allow for the siting of all appropriate utility services presently located in the existing structure and shall be implemented in accordance with the approved details. *Reason: To ensure continuity of the footway connection across the river to protect the amenity of residents and other users*
17. Save for the primary school and 80 residential units required to re-house the Taff Street and Crescent Street residents and their associated infrastructure, there shall be no beneficial occupation of any part of the development prior to completion of the new River Taff bridge crossing and associated access road between Aberfan Road and Bells Hill. *Reason: To ensure continuity of highway access*
18. Prior to beneficial occupation of any part of the scheme a Traffic Management Plan for the existing B4285 between the Aberfan Road/Bridge Street junction and the new northern roundabout shall be submitted, approved in writing by the local planning authority and

implemented. *Reason: In the interests of highway safety: as a result of additional traffic from the residential catchment at the southern end of the village that will use the section of Aberfan Road to the north of its junction with Bridge Street.*

19. Access to the new school and the existing civic amenity site shall be made from that part of the new road from the B4285 crossing the river into the development to the east. The access road shall be constructed to the final line and level in readiness for the new bridge crossing. This access road and the junction with the existing B4285 shall be completed in accordance with a scheme to be previously approved in writing by the local planning authority, before the school is brought into beneficial use. *Reason: To allow adequate access to the new school and to maintain continuous access to the civic amenity site*

DRAINAGE

20. No additional connections shall be made to the large culverts which traverse Area A of the site. A scheme for their protection during the course of development shall be submitted to and approved in writing by the local planning authority prior to commencement of the development and implemented. *Reason: To protect the existing culverts in the public interest.*
21. No development shall commence until details of the proposed foul and surface water drainage for the site, (to include Sustainable Drainage Systems where appropriate within the constraints of the contamination identified on the site) have been submitted to and approved in writing by the Local Planning Authority. The details submitted shall include construction phase drainage, measures for the management of post development run-off from the site and the incorporation of facilities for rainwater harvesting. The development shall be implemented in accordance with the approved scheme. *Reason: To prevent the pollution of controlled waters*

AFFORDABLE HOUSING

22. No residential development shall commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:
- a. provision for 55 dwellings to be occupied as general rental accommodation through a named Registered Social Landlord; and

- b. the timing of the construction of the affordable housing;
- c. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- d. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.

Reason: To ensure an adequate provision of affordable housing, in accordance with PPW (2002), TAN 2 the adopted Local Plan and LDP Preferred Strategy

BIODIVERSITY MATTERS

23. Prior to commencement of the development a habitat management plan shall be submitted to, and approved in writing by, the local planning authority. The plan shall include the following:
- a. Description and evaluation of the features to be retained, created and managed (to include the riparian corridor, mature woodland, neutral grasslands and areas of scrub/developing woodland;
 - b. Description of the features which are to be lost and details of how these losses will be mitigated through suitable habitat creation elsewhere on site;
 - c. Aim and objectives of management;
 - d. Prescriptions for management actions;
 - e. Preparation of a work schedule – including a 5 year project overview and annual work plans;
 - f. The names and qualifications of personnel responsible for the implementation of the plan;
 - g. Monitoring and remedial/contingency measures triggered by monitoring;
 - h. Scheme for treatment and eradication of Japanese Knotweed on the site.

The management plan shall be implemented as approved. *Reason: to ensure the retention and enhancement of habitats.*

24. No development shall commence until full details for bat and otter conservation and mitigation have been submitted to, and approved in writing by, the Local Planning Authority. The conservation and mitigation measures shall be undertaken in accordance with the scheme, as approved. *Reason: to ensure the retention and enhancement of habitat*

connectivity along the riparian corridor through adequate landscape features providing navigation routes and cover for bats and otters.

CONTAMINATED LAND MATTERS

25. No development shall commence until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority

26. The above scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to controlled waters when the site is developed.

27. The construction of buildings approved by this permission shall not commence until the measures approved in the scheme have been implemented.

Reasons for 25, 26, 27: to ensure that the proposed site investigations and remediation would not cause pollution to controlled waters

28. If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an addendum to the scheme approved pursuant to condition 25 above. This addendum must detail how this unsuspected contamination shall be dealt with. *Reason: To ensure the practical implementation of any necessary remediation and the protection of controlled waters*

29. Upon completion of the remediation detailed in the approved scheme and addendum (if applicable), a report shall be submitted to the local planning authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved scheme(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report. *Reason: to ensure that the development complies with approved details in the interests of the protection of controlled waters.*

6. *the proposal does not have an unacceptable impact on the character, amenity and landscape quality of the area, including the need to retain features of water, wildlife, nature conservation interests and historical interests identified during the assessment and design of the scheme*
7. *the proposal does not have an unacceptable impact on the rights of way network and other forms of public access to the countryside*
8. *the proposal has regard to the provisions of policy NH7 regarding the water environment.*

Policy RC5:

Development proposals for the following uses:-

1. *leisure and entertainment uses which are normally associated with retail and commercial activities in the town centre*
2. *cinema, theatre, assembly hall complexes and ten pin bowling halls*
3. *food and drink facilities;*

will be permitted subject to consideration against the following criteria:-

- 1) *the proposal is located within settlement boundaries as delineated on the local plan proposals map*
- 2) *where feasible the proposal should use or re-use redundant land or suitable vacant buildings in the town centre as defined on the local plan proposals map or in edge of centre locations*
- 3) *the proposal would not have an unacceptable impact on the character and amenity of the immediate neighbourhood*
- 4) *the proposal does not have an unacceptable impact on the character, amenity and landscape quality of the area*
- 5) *the siting of the development is acceptable having regard to dust, odour and noise emissions*
- 6) *the proposal would not conflict with transportation considerations including parking, traffic generation, access and accessibility to public transport*
- 7) *the proposal has regard to the provision of policy NH7 regarding the water environment.*

Policy RC6:

Development proposals for local shops will be permitted subject to consideration against the following criteria:-

1. *the proposal is located within settlement boundaries as delineated on the local plan proposals map*
2. *the proposal would not have an unacceptable impact on the character and amenity of the immediate neighbourhood*
3. *the proposal would not conflict with transportation considerations including parking, traffic generation, access and accessibility to public transport.*

Policy RC7:

Development proposals for new office floorspace will be permitted subject to consideration against the following criteria:-

1. *the proposal is located within settlement boundaries as delineated on the local plan proposals map*
2. *the proposal does not have an unacceptable impact on the character, amenity and landscape quality of the area*

3. *the proposal would not have an unacceptable impact on the character and amenity of the immediate neighbourhood*
4. *the proposal would not conflict with transportation considerations including³ parking, traffic generation, access and accessibility to public transport*
5. *where feasible, the proposals should use or reuse redundant land or suitable vacant buildings in town centre or edge of centre locations*
6. *the proposal has regard to the provisions of policy NH7 regarding the water environment*

Policy NH1:

Development for new development in the countryside outside identified settlement boundaries will be permitted subject to consideration against the following criteria:-

1. *The merits of the development should clearly outweigh the value of protecting the countryside for its own sake particularly in landscape protection areas: appropriate forms of development may include tourism, leisure, reclamation, renewable energy, health and amenity, transport links and utilities.*
2. *The proposal does not have an unacceptable impact on the character, amenity and landscape quality of the area.*
3. *The proposals are in accord with other development specific policies contained within the local plan.*
4. *The siting of the development is acceptable in relation to the design, scale, materials and setting of the proposal.*
5. *The development does not pose an unacceptable risk to sites of nature conservation interests which include habitat, species and sites of geological and geomorphological interest.*
6. *The proposal does not conflict with transportation considerations including parking, traffic congestion, access and accessibility to public transport.*
7. *The proposal does not compromise the enjoyment of public rights of way and other forms of public access to the countryside.*
8. *The proposal has regard to the provisions of policy NH7 regarding the water environment.*

Policy NH7:

Development proposals which affect the water environment will be permitted where:-

1. *it can be demonstrated that adequate water, sewerage treatment and land drainage services are available or can be readily and economically be provided to serve the development without detriment to the environment*
2. *the development will not have an adverse impact upon the quality and quantity of groundwater resources, surface waters, other water bodies or the flora and fauna dependent upon such water features*
3. *the development will not result in an increased risk of flooding due to additional surface water run-off*
4. *if development involves areas of land liable to fluvial flood risk, adequate mitigation measures can be undertaken to reduce the risk of flooding both of the proposed site and elsewhere, prior to any development proceeding.*

22. LP policies GR1 and GR2 identified the Merthyr Vale ex-coliery site as a reclamation site (DL1) with named after uses including housing, highway and amenity. Consequently through

the housing sites allocation policy H1, the adopted LP Proposals Map²¹ identifies the colliery site (Area B) as site H50 comprising 5.3ha with potential for 150 units including elements of affordable housing and open space²². Reference to the colliery site as a *potential development* site is also made at paragraph 13.27. The Proposals Map also identifies the general route of the safeguarded highway link to which policy T3(6) applies. The extent of the settlement is shown approximately 100 metres from the northern boundary of the H50 allocated site and excludes land to the north of the access road to the civic amenities site.

23. Other policies of relevance include policy H4 that seeks the provision of affordable housing and policy H5 relates to the provision of residential and nursing homes. Policy WR2 requires that development on potentially contaminated land is supported by appropriate technical appraisals and policy GR1 provides criteria against which development for the reclamation of derelict or unsightly land will be assessed.
24. The delivery agreement relating to the Borough's Local Development Plan was agreed by Welsh Assembly Government on 14 February 2006. The Preferred Strategy of the Merthyr Tydfil CBC Local Development Plan (LDP) 2006-2021²³ approved by the local planning authority on 25 April 2007 was the subject of public consultation between 17 May – 29 June 2007. The Deposit version is expected to be published in early 2008, with a view to adoption of the LDP in late 2009. The preferred strategy builds upon the Turning Heads Strategy noted above and has regard to the Borough's Community Strategy and the Council's Housing Strategy 2004 – 2009, the South East Regional Waste Plan, the Bio-diversity Action Plan and the Landmap landscape assessment study and Historic landscape characterisation study, the Local Transport Plan 2000 and the Unitary Development Plans of neighbouring local planning authorities.
25. The LDP's Preferred Strategy is one of 'enhanced growth' that seeks to stem the outward migration in order to stabilise population levels by 2011 and thereafter achieve population growth. Along with other growth areas, the application's location is identified for a moderate number of land allocations, with the application site seen as *vital to the regeneration of the mid valleys communities*. Its detailed policies 5, 6, 8 and 13 are relevant and take forward those in the adopted local plan.

Planning History²⁴

26. Following the closure of the colliery in 1989, the two mine shafts were capped and the colliery buildings were demolished. Outline planning permission was granted in February 1992 for 'residential use, open space, distributor road etc' (application 91/0034) subject to conditions. In April 1995 British Coal and the Welsh Development Agency were granted planning permission for the reclamation of the colliery site (application 94/475). Permission was subsequently granted for the relaxation of conditions in 1997 (97/0414, 96/0404), for the removal of coal bearing material also in 1997 (96/0311), for the provision of a civic amenity site (on Area A) in 1994 (94/0065).

²¹ CD 2.3

²² LP page 100 – CD 2.2

²³ CD 2.4

²⁴ CD 4.1-4.7

The Proposals

27. Further to the description of the development above, the SOCG drawn up with the local planning authority expands upon the nature of the proposal. It refers to 230 dwellings, but this includes 80 replacement dwellings arising from the demolition of houses in Taff and Crescent Streets. The additional dwellings therefore amount to 150 new units. Reference is also made to landscaping proposals comprising a riverside walk, landscaping and public open space and associated engineering works. These works include the raising and re-profiling of land within the application site possibly up to 4 metres in height in the Taff Street and Crescent Street area and the building of flood management structures such as a stub wall (approximately 1200mm high) at the rear of the Nixonville houses and rear garages and the removal of shale from the bends in the river and reinforcement works to the channel edges. During the Inquiry it was confirmed that the project would also include the construction of a relief or by-pass channel or culvert under/adjacent to the proposed spine road. The SOCG with the Highway Authority indicates that these works would include the construction of new junctions at the northern and southern extremities of the site, along with a new river crossing (to replace the 'library' bridge) and associated infrastructure to link the east and west banks of the Taff. Associated surface and foul drainage infrastructure would also form part of the development project.
28. The original planning application was supported by a traffic impact assessment (TIA), a flood risk assessment (FRA) and an ecology report. Following extensive consultations, the application was reported to the Council's Planning and Regulatory committee on 14 September 2005 with a recommendation to grant outline planning permission²⁵. The Committee were minded to accept the recommendation, but as it represented a departure from the Development Plan, inasmuch as it proposed development (Area A – the school) outside the settlement boundary, the application was advertised and referred to the Welsh Assembly Government for consideration.
29. The application proposal has become known as the 'Riverside Project'.

The Case for the applicant²⁶

The material points are as follows:

30. The purpose of the Inquiry was to assess the planning merits of the application that has been generated by the inter-disciplinary work of the Council as a corporate body, its specialist consultants and as local planning and highway authorities. Development Briefs would require a high quality development brought about through contractual obligations between the CBC and subsequent developers.
31. The applicant continues to seek a consensus with local residents regarding the acquisition of their houses and their relocation within the proposed development, but if this fails, the Council may need to use its planning Compulsory Purchase powers under S.226 of the 1990 Act.

The need for the development and its context

²⁵ CD 5.1

²⁶ Docs. 4, 5, 9,10,14

32. The proposals stem from a long standing and consistent approach to the regeneration of the area which is recognised as being in decline and in urgent need of intervention. The aim is to stem and reverse the high levels of social and economic deprivation²⁷ and reflects the objectives expressed in the Wales Spatial Plan²⁸. Following a report by Arthur Associates in 2000 and Pennington²⁹, Merthyr Vale and Aberfan was declared a housing renewal area in 2001. This was consistent with sections 120/121 of the Government of Wales Act 1998 which sets out the Assembly's duty to ensure that ... 'it promotes sustainable development'. Given the poor condition of the environment including the exposure of some houses to the high risks of flooding, the existing situation is unsustainable and without intervention, the community will continue in slow decline. The weaknesses were of such magnitude that in 2002 the CBC established a vision that states:

'By 2010, Merthyr Tydfil will be a safe, healthy and exciting place to live and visit. Our ambition is to be a sustainable, confident County Borough which recognises and promotes equality of opportunity and where people want to achieve in all aspects of their life, through work, leisure and learning. Our vision is to be recognised as a vibrant, thriving regional centre for the Valleys.'

33. The application site represents the only strategic site that would respond to this Vision and lead to a significant improvement in the lives of those living in the community. It is key to the success of the regeneration agenda: there is no 'plan B' or alternative that would meet the long standing objectives. If the proposal fails, the private sector would be discouraged from investing in the area, thereby perpetuating and accelerating the decline. All components of the proposal are inter-related. The first phase of the housing would be built at the same time as the new school to which it would be linked by a new bridge across the River Taff. That housing would require an off-site foul sewer connection through Taff and Crescent Streets to an existing siphon linking both sides of the River. Although some development on Area B could take place before the demolition, the regular flooding, sewer surcharging, inadequate emergency access, cramped conditions, parking problems and the sub-standard fabric of some of the dwellings, in combination lead to the conclusion that the opportunity to formulate and implement a comprehensive regeneration master-plan should be taken.
34. The proposal therefore responds to the EAW advice that the construction of a flood defence to the existing Taff and Crescent Streets would not be economically or practically feasible, and that the EAW would not be providing such a scheme.³⁰ The retention of Taff and Crescent Streets would not be possible because: (a) the main source of funding for the works to reduce flood risk would be revenue from the proposed residential development; (b) without such funding, the works to reduce existing significant flood risks cannot proceed; (c) it would be difficult to protect Crescent Street by refurbishment or replacing the existing flood defence wall being founded on permeable alluvium; (e) even if the wall were to be refurbished, there would be a pathway for floodwaters to pass underneath and (f) this approach would cut off any flow routes to return to the river after a flood event.

²⁷ section 3.1 to CBC's C/Executive POE

²⁸ CD1.1

²⁹ CD 5.4 & 5.5

³⁰ CD 6.4

35. There is a high degree of consensus amongst local residents and interested parties about the concept of the proposals and that further delays must be avoided. The area has attracted funds through the Communities First Programme, Sportlott and from Rail Track in respect of a new station and a 20 minute link to Cardiff. However the Riverside Project has missed out on the benefit of using European Structural Funds under the Objective One Programme: the new European Convergence funding runs from 2007-2013³¹. Locally there is a yearning to move on from the decline and tragedies of the past and to bring about much-needed regeneration³² and desperation at the continued delay³³. Much needed employment would also be generated during the construction phases. Those residents making planning comments mostly relate to the detailed arrangement of components of the scheme that would be addressed at the detailed planning (Reserved Matters) stage.
36. The proposed new school is part of the Council's strategy of removing surplus places from primary education provision as a result of falling rolls in the Borough. The Mount Pleasant and the Ynysowen primary schools would merge into the new school. Ysgol Rhyd y Grug would then move into the current Ynysowen school as a Welsh medium provision in the village. Being located next to recently enhanced sports fields, the proposed new school would make joint use with the rest of the community of this facility and be centrally located between Aberfan and Merthyr Vale. As such, the proposal would satisfy the National Audit Office and Welsh Assembly Government requirements to reduce surplus primary school places in addition to reducing the transport needs of pupils attending the local schools. The proposal has the full support from the LEA³⁴.
37. Following third party comment about the location of the new school and the previous commitments to locate it within Area B³⁵, the CBC's solicitor confirmed that as far as the historic and legal aspects are concerned, there are no contractual requirements for the school to be located within Area B.
38. As well as conforming to the planning policies noted below, the proposal would accord with and respond to the objectives set out in the Borough's Housing Policy and Local Housing Strategy³⁶ and at paragraphs 3.4.2 and 9.1.1 of PPW. The assessment of fitness standards of Taff and Crescent Streets³⁷ revealed that 14% and 10% (respectively) of the properties were deemed unfit. The outcome after modelling economic appraisal, sensitivity analysis and socio-economic assessment against Section 604 of the Housing Act 1985, as amended by paragraph 83 of Schedule 9 of the Local Government and Housing Act 1989, was unclear. Therefore, clearance under the Housing Act was not possible. However, in the absence of a flood protection and new drainage scheme, the investment of public funding in the improvement of the housing conditions was not considered appropriate.

³¹ Doc 4(b) details of funding given on page 17, Doc 4 (c) page 14 para 8.5

³² Cllr Edwards doc 4(b) page 18.

³³ Mrs Downing et al

³⁴ Doc 4(b) appendix JE 3

³⁵ Mr Sims

³⁶ CD 3.10 & 3.11, Doc 4(c) pages 8-10

³⁷ CD 5.4 & 5.5

39. Even so, the retention of the existing Taff and Crescent Street communities would be a priority, with the 80 dwellings being built at an early stage to enable residents to be decanted to new, safe houses at the southern ends of Areas B and C³⁸. Residents would have the option of returning to their former locations after rebuilding works had been completed. This objective of maintaining an existing community is consistent with the principles of sustainable development and good design. Although not strictly a planning issue, this commitment is illustrated through the financial arrangements that would be put in place to ensure that equity vested in owner-occupied property by existing residents and their successors would be safeguarded (and grow). About 70% of Crescent Street residents are Housing Association tenants and their occupation tends to be transitory. Of the remaining 30% of residents, those living at the southern end in houses that suffer from flooding, support the proposal. The concerns of others about becoming indebted would be addressed in a sensitive and equitable manner as set out in the Housing Renewal Policy, with additional grants available under the Housing Act 1996 to assist in the costs of relocation³⁹.

Assessment against the Development Plan and other planning policies

40. The SP and LP are permissive of housing proposals within the settlement and in regard to the colliery site in particular transportation and employment policies similarly favour the proposal⁴⁰. There are no serious objections relating to the compatibility with existing development, transportation considerations, to the conservation of the environment and to the maintenance of local amenity. Taff and Crescent Streets lie within the settlement and being subject to the risk of flooding, the proposals for their renewal accord with Development Plan policy. Other specific support is provided by the reclamation LP policies GR1 and GR2 that recommends housing as an after-use for the colliery site. The housing would positively contribute to the housing land supply⁴¹ assessed in June 2006 as 2.9 years that represents a shortfall compared to the SP requirements. On the basis of past low completion rates, which suggests a land supply of 5.7 years, the net gain of 150 units on Area B would only equate to one year's supply, with another 80 units on Area C⁴².
41. LP policy H2 permits housing within settlement boundaries subject to detailed criteria including the water environment covered by policy NH7. Having regard to these, significant betterment would result from the replacement of the existing Taff and Crescent Street houses following the raising of ground levels above flood levels and the renewal of the existing inadequate drainage infrastructure. As with other new dwellings, the replacement dwellings would be built to *Breeam*⁴³ *excellent and lifetime homes standards*, bringing lower carbon footprints and lower running costs⁴⁴. Further delay would only bring greater stress to local residents who fear flooding every time there is a 'red alert' from the EAW.

³⁸ Doc 4(a), appendix BS5 diagram.

³⁹ CD3.10 – page 13

⁴⁰ SP policy H3, LP policies H1/H2, T3, E1

⁴¹ CD3.9

⁴² Doc 5(g) page 27

⁴³ CD 1.13

⁴⁴ Appendix RD1 to doc 4(c)

42. LP policies T3(6) (road link), RC5 (retail), RC6 (offices) and RC7 (A3 uses) would all be satisfied, with the latter's scale being restricted in any permission granted to ensure compliance with the tests included in the policies' criteria. Such uses would be small scale and serve the local community. LP policy H4 and LDP policy 5 (affordable housing) would be addressed through the provision of 55 units in line with the Housing Needs Survey and included in the LDP Preferred Strategy⁴⁵. Moreover the objective expressed in PPW that pdl should be utilised would be met⁴⁶.
43. The only element that was treated as a departure related to the proposed school, because Area A lies outside the settlement boundary as defined by the local plan and clarified at its paragraph 4.3. However, LP policy NH1 is permissive of such development provided criteria are met and the merits of the scheme outweighing the value of protecting the countryside for its own sake. Here, the local planning authority had indicated through the draft UDP that Area A should be included within the settlement boundary prior to this Plan being abandoned in favour of the LDP.
44. The LDP is at an early stage, but the proposal accords with the LDP Preferred Strategy of stabilising the current levels of out-migration by 2011 and a 10 year period of enhanced growth. This approach is consistent with that set out in the Welsh Assembly Government's Turning Heads Strategy⁴⁷. Thus the proposal represents an integral and vital part of local planning authority's strategies for housing, regeneration and renewal for which there is a long standing commitment. It is therefore consistent with the Development Plan and emerging Plan's policies.

Flooding considerations

45. Flooding has occurred at parts of the site and in the vicinity in the past. Of particular note is the flooding at Crescent Street in Area C, and at Cottrell Street on the west bank opposite Area B, in 1998 when the flood was assessed as having a 1 in 36 year probability. Insofar as Crescent Street is concerned, it is built on very porous alluvial deposits and a significant element of the flooding resulted from water flowing up out of the ground. It would, therefore, be difficult to protect Crescent Street by refurbishing or replacing the existing flood defences, as a pathway for flood waters would remain underneath the wall. Furthermore, such a proposal could cut off flow routes for flood water to return to the river after a flood.
46. For the 1 in 100 year probability flood, under current conditions, marginal out of bank flooding would occur with maximum depth of floodwaters at Nixonville, Crescent Street, Days Yard and Riverside Close estimated to be 400mm, 2200mm, 500mm and 500mm respectively. In a 1 in 1000 year probability flood with a 20% increase to allow for climate change, the depths at these locations would increase to 1600mm, 4500mm, 2100mm and 1900mm, respectively. Studies indicate that the Bridge Street (library) bridge could fail before the 1 in 1000 year event causing a significant obstruction to flows. If this occurred, the above values would increase even further, particularly at Nixonville where the depth of flood water would be up to 3200mm, and other areas in the vicinity would also suffer severe flooding.

⁴⁵ CD2.4, page 45 policy 5 at first paragraph 8.7

⁴⁶ CD 1.2 para 2.7.1

⁴⁷ see para. 18 above : policy section

47. Area A lies in flood risk zone C1, as shown on Development Advice Maps⁴⁸ produced by the Welsh Assembly Government. However, it was raised in the 1970s such that several metres of made ground now overlay the natural flood plain. The new school in Area A would be constructed with access road and finished floor levels slightly above current ground levels such that the school would be flood free in a 1 in 1000 year probability event.
48. Area B lies in flood risk zone C2, where residential development is not normally allowed. However, the historic land raising associated with the colliery has already lifted many parts of the site above the 1 in 100 year probability flood level. The residential development proposed for this area would be flood free during a 1 in 1000 year probability event. Area C also lies in zone C2. Existing flood prone houses and flats at Taff and Crescent Streets would be demolished. The land would be raised to give a high level development platform for new build replacement housing, which would be flood free during the 1 in 1000 year event with safe access from the B4285.
49. To reduce existing flood risks, the following works are proposed as part of a scheme to be agreed at the detailed stage. The (library) bridge would be replaced by a new footbridge at a higher level and a new high level vehicular crossing would be provided near the school site. There would be land raising on each side of the river associated with this new crossing, which would be extended south towards Nixonville to prevent any overtopping of the river banks. The new access road would be raised opposite Nixonville to ensure that dry access is provided during a 1 in 1000 year probability flood. Protection to the back of Nixonville would be provided by an embedded concrete wall which would be free draining at its downstream end. A dedicated access would also be provided from the recently constructed housing at Days Yard to the raised platform at the school site. The two bends in the river at Area C would be straightened and the channel widened locally. Improvements would be made to the foul and surface water drainage systems which have been problematic during previous flood events.
50. The detailed numerical modelling carried out showed that there would be some minor detriment to properties in Cottrell Street. However, further analysis has demonstrated the feasibility of an engineering solution to prevent this. A range of options were initially considered and the one selected for analysis was a bypass culvert or channel adjacent to the access road to take a proportion of river flows during flood events. It would have an inlet close to the new road bridge and discharge back into the river in the vicinity of the existing footbridge opposite Ynysowen Primary School.
51. Re-running the model to take account of such a culvert or channel shows that for a 1 in 1000 year probability flood event there would be no increase in river levels as a result of the proposals (assuming that the (library) bridge remained intact in the pre-development scenario) other than immediately downstream of the bridge. This 300mm increase would be a localised effect resulting from the removal of the obstruction caused by the bridge in the post-development scenario and the stub wall behind Nixonville would protect against it. With one exception, overland flows and levels would be the same as or less than for the pre-development scenario. The exception relates to an insignificant increase of 30mm in Lower Cottrell Street and Days Yard, which is within the accuracy of the model and could, if necessary, be mitigated during detailed design.

⁴⁸ CD 7.1

52. A semi-quantative Flood Hazard Comparison for a 1 in 1000 year probability flood event has been carried out. This was based on the Environment Agency/DEFRA publication *Flood Risks to People: Phase 2 – FD2321/TR2 (March 2006)*⁴⁹, modified to reflect the requirements of TAN 15. This shows that, generally, there would either be no significant change or varying degrees of betterment in the post development scenario as compared to the pre-development scenario with the (library) bridge in place. The only exception being a minor detriment in relation to the road under the footbridge at Ynysowen Fach. This would not impact on adjoining properties and, as the road would be under around 3m of water in any event, it would not affect potential escape routes.
53. The proposal would result in some loss of flood plain storage but this would be inconsequential as in the 1 in 1000 year probability flood only 3 minutes flow can be stored at the colliery site. Floodway discharges downstream would not be materially affected, decreasing to 319 cumecs from 320 cumecs in a 1 in 100 year probability event and increasing to 551 cumecs from 550 cumecs in a 1 in 1000 year probability event. At the site, conveyance is more important than storage with the difference between the pre-development bridge intact model and the post-development model discharges only amounting to 0.1%.
54. The Welsh Assembly Government's *Supplementary Note to Operating Authorities - Climate Change Impacts*⁵⁰ has been taken into account. River flows for extreme flood events have been increased by 20% in the calculations⁵¹. The proposed development meets many of the criteria required to justify adopting a managed approach, by providing full protection from the outset, and an adaptive approach, through being capable of further upgrading to the future.
55. The previous paragraphs demonstrate that flood risks could be adequately managed and that there would be a dramatic improvement over the existing situation. In fact the proposals offer the only reasonable prospect of removing existing properties and their occupants from a situation of anxious dependence on the EAW's flood warning service. In addition, the proposals would enable development/redevelopment of housing and infrastructure in conditions of dramatically reduced risk of flooding and much improved management in such an event. As a result, the stated policy objectives of PPW, in terms of moving away from flood defence and mitigation of the consequences of new development in areas of flood hazard, would be satisfied by the scheme proposed. There is no evidence that any increase in water velocity would have a deleterious impact upon the downstream railway viaduct, as feared by a third party⁵².
56. As far as TAN 15 is concerned, there is no conflict in respect of the proposal for Area A because the justification tests relating to development in zone C1 have been satisfied. On the basis of the Development Plan and emerging LDP, as well as the scheme's contribution to the Council's Vision for 2010⁵³ and the Community Plan Vision to 2020⁵⁴, together with its

⁴⁹ CD 12.2

⁵⁰ CD 12.6

⁵¹ Doc 4f page 40 para 6.7

⁵² Mr Sims

⁵³ See para 32 above

⁵⁴ see Doc 4 C page 7 para 3.1

importance to the Merthyr Vale Renewal Area, the scheme is clearly necessary as part of a local authority regeneration initiative. Although the criterion relating to employment objectives is an alternative to the above, the employment component has the potential to generate around 40 direct jobs together with further indirect jobs through the creation of interest in the area.

57. Generally, the location sits well with PPW's sustainability principles and policies for settlement pattern and location of development within established areas which are capable of being well served by public transport. The site also comprises previously developed land. Preceding paragraphs have demonstrated that the potential consequences of a flooding event have been considered and in terms of TAN 15 criteria found to be acceptable.
58. The residential elements proposed in Areas B and C conflict with the letter of TAN 15 but it is clearly established as a principle of law that policy should not be applied slavishly. Furthermore, the TAN recognises that some flexibility is necessary to enable the risks of flooding to be addressed whilst recognising the negative economic and social consequences if policy were to preclude investment in existing urban areas and the benefits of reusing previously developed land.
59. The Minister's clarification letter⁵⁵ places an emphasis on judgement in individual circumstances. Following its issue in November 2006, it appears that a more flexible and pragmatic approach has been applied to call-in and appeal decisions relating to proposals in zone C2. Where the flood risk issues can be reasonably addressed, other factors such as betterment to the wider community and 'net gain' in terms of regeneration benefits can outweigh flood risk concerns, provided that the works required are achievable and the remaining risk of flooding is minimal.
60. In this case, the scheme overall has the capacity to advance the achievement of the policy aim of reducing flood risk and its potentially adverse consequences and is, therefore, worthy of outline planning permission.

Transport considerations

61. A full Transport Assessment of the proposals has been carried out⁵⁶ and confirms that the development would not result in traffic capacity issues at key junctions on the local network. Very robust, worse case scenario assumptions have been used to ensure that base line calculations take into account predicted transport growth over a 15 year period. Some off-site works would be required, these being secured by way of negatively worded 'Grampian' type conditions. The new spine link road that would provide a new bus route would rejoin Aberfan Road in the vicinity of Bells Hill/Pantglas Road, probably in the form of a roundabout. Moreover, the proposal would be consistent with paragraph 2.5.3 of PPW⁵⁷ and TAN18⁵⁸ with easy access to the adjoining railway station and local bus services⁵⁹. The illustrative

⁵⁵ CD 6.2

⁵⁶ Doc 4(e), appendix MP1

⁵⁷ CD 1.2

⁵⁸ CD 1.10

⁵⁹ Doc 5(e) page 4

Masterplan⁶⁰ also shows that good pedestrian linkages would be provided, with the new 'library' bridge being designed to facilitate maximum accessibility and nearby car parking. Its replacement is required not only to bring a reduced risk of serious flooding in the event of its collapse and blocking the River Taff, but also because of its poor structural condition and danger to the infrastructural services contained within it. In addition, improvements to the network would reduce the accident potential arising from narrow footways, on-street parking and poor junction visibility⁶¹. The weight restrictions to be imposed on the 'library' bridge would have no material impact upon the implementation of the proposal, as the TIA assumed that certain restriction would be required given its perilous condition⁶².

Other matters

62. The visual, environmental and biodiversity/nature conservation issues are addressed in the proposal having been informed by appropriate investigations and recommendations.⁶³ No bio-diversity features are currently present which might preclude the development in principle. However, the River Taff and the adjacent riparian habitats are of particular note and would be enhanced through the creation of new enhanced wetland habitats, artificial otter holts and crossings, a wildlife corridor of at least 5 metres in width and 10 metre wide wildlife buffer throughout the development area. Additional native landscaping would take place and steps taken to removal of large areas of invasive plant growth. This would also visually enhance the Riverside and provide an attractive recreational resource for the community. A habitats management plan would ensure that all necessary mitigation measures were implemented⁶⁴. In addition, sustainable transport measures incorporating safe residential layouts for pedestrians, cyclists and buses would simultaneously improve local safety and the quality of life, while addressing climate change by providing opportunities to use alternative modes of transport.
63. Land reclamation was carried out in the mid and late 1990s when large volumes of contaminants were removed⁶⁵. Surveys have revealed that there are no insurmountable issues that would prevent the development.⁶⁶ Suitable conditions would require any residual works to meet current standards in respect of human health, controlled waters, ground gas and colliery spoil emissions and stability. The illustrative master plan also identifies a 30 metre zone around the two former pit shafts to be kept free of built development.
64. For all these reasons the proposal is commended.

The Case for the local planning authority in support of the proposal

The material points are as follows:

⁶⁰ Doc 4(a) appendix BS1

⁶¹ Doc 4(e) appendix MP1 pages 5-6

⁶² Doc.13, Doc 5(f) appendix C

⁶³ CD 8.2-CD11.4

⁶⁴ Doc 5 F page 47

⁶⁵ Doc 5A Appendix BS4 appendix 4

⁶⁶ CD 13.2- 15.2

65. The whole of the former colliery site is classified as previously developed, 'derelict land'⁶⁷ and is identified for housing in the LP⁶⁸, with a link road route protected⁶⁹. The majority of the application site lies within the settlement limits, but as the proposed school site would be outside the settlement boundary defined in the LP, the application was referred to the Welsh Assembly Government in accordance with the departure regulations. The scheme is the culmination of work since 1988 and is consistent with the theme running through all the CBC's planning and other departments' studies. During the inception of the current Riverside Project, the LPA was preparing the draft Unitary Development Plan which included the components of the current proposal including the school site. The draft UDP has been superseded by the LDP process that takes forward the commitment for the school and the other elements of the proposal. The application would meet the five objectives identified in seeking to progress the redevelopment of the former colliery:-

- to optimise the benefits of declaring a renewal area
- to meet the housing needs of the community
- to improve the social, economic and employment opportunities in the area
- to enhance the perception and image of the area in order to promote long-term confidence, and
- to improve the quality and availability of local amenities.

66. Specifically, the project would seek to stem the outward migration defined in the Preferred Strategy as a key objective of the enhanced growth strategy⁷⁰. This identifies the application site's regeneration as a priority. Paragraph 7.30 of the LDP's Preferred Strategy also identifies the site as a main area for change and at paragraph 7.55 as being vital to the regeneration of the mid valley communities. The proposal would accord with the policies included in the Preferred Strategy and thus, it is consistent with the regeneration objectives expressed through the LP. It would also provide an opportunity to provide approximately 25% of the housing as affordable housing, the need for which is identified in the Housing Market Assessment⁷¹ and as required through LDP policy 5. The school is an integral part of the whole scheme and would provide an essential community element to foster a thriving and sustainable community. Being centrally located between the villages of Merthyr Vale and Aberfan and next to the recently modernised playing fields and sports facilities, the school would provide a focal point for community activity. Welsh Assembly Government funding has been secured for the school's provision. Thus it represents a justifiable departure from the LP.

67. In terms of the scheme's traffic implications, in accordance with paragraph 8.7.2 of PPW, a TIA was carried out. This raised few issues of concern and thus, subject to the imposition of conditions, SP policy T3, LP policy T3(6) and LDP policy 13 would all be met. Such conditions would also address the phasing of the development to take account of the removal and replacement of the substandard 'library' bridge, the current structural condition of which

⁶⁷ LP policy GR2/site DL1

⁶⁸ LP policy H1/ site H50

⁶⁹ LP policy T3(6)

⁷⁰ CD 2.4 page 34 @ 7.1

⁷¹ CD 3.12

has recently required steps to commence proceedings to impose a weight restriction of 7.5 tonnes⁷². Not only would its collapse create a major obstruction to the flow of the River Taff and result in significant flooding, but it also acts as a main conduit for service infrastructure and as a transport link. The only alternative vehicular route is at Troedyrhiw several miles to the north: the proposed replacement road link would resolve this concern. A higher level footbridge on the site of the existing 'library' bridge with suitable car parking close-by, would ensure that pedestrian and infrastructure linkages were maintained. Consideration has been given to the implications of restricting the 'library' bridge for construction traffic during the implementation of the Riverside Project by way of contractual conditions, and it was confirmed that the imposition of such weight restrictions would not have an impact upon the development.

68. Appropriate studies have been undertaken to assess levels of any residual contamination following the site's reclamation in the late 1990s⁷³. Small parts of the site are potentially contaminated, but subject to the imposition of normal planning conditions requiring further investigation and remediation, this would not represent an impediment to the site's redevelopment.
69. Baseline ecological assessments⁷⁴ were undertaken that identified the presence of protected species – bats and otters. The 3 tests imposed by the European Habitats Directive⁷⁵ of whether there is an alternative to the development; what the effect on the maintenance of the population would be and thirdly, whether the proposal would meet an overriding public interest, would be met by the development. Following consultation with CCW and EAW, it is agreed that the imposition of planning conditions would address this issue satisfactorily and avoid any conflict with LP policy NH7 or LDP policy 6. The conditions would ensure that the 'actual' and 'probable' otter holts would be adequately protected with the bank-side vegetation retained and enhanced to ensure good cover for feeding and commuting otters, and to ensure flight lines and foraging places for bats would be maintained and enhanced. Any loss of habitats would also be mitigated through the creation of new habitats.
70. As to the visual and environmental implications of the Project, a detailed design statement would be required as a condition of any outline planning permission that would address matters of detailed design, layout, materials and meeting the challenges of climate change and the requirements of LDP policy 8 – Sustainable Design, as encouraged in the draft Ministerial Interim Planning Policy Statement (MIPPS) – climate change, December 2006⁷⁶.
71. The retail element of the proposal comprises two small scale corner shops and would serve the local community. Other leisure facilities would also be small scale serving local needs. There would be no conflict with paragraphs 10.1.4 of PPW 2002 or 10.2.12 of MIPPS 2005⁷⁷, or with LP policy RC6. Similarly the small office element would not offend LP policy RC7.

⁷² Doc 13

⁷³ CD 13-15

⁷⁴ CD 8-11

⁷⁵ CD 3.1 & 3.3

⁷⁶ CD 1.17

⁷⁷ CD 1.12

72. With regard to flooding, the land raising works would bring betterment for Area C – Taff and Crescent Streets. Nixonville would also be protected through bund restoration and the provision of an improved, safe access/egress route. The removal of the 'library' bridge and other land raising in area B would also bring significant betterment. The Council's Head of Engineering supports the proposal and is satisfied that no material off-site effects would result. The risk of flooding property and neighbouring land would be significantly reduced. It should be noted that the EAW also advised that the opportunity to redevelop should not be missed as they were currently not in a position to do anything with flood alleviation in the area⁷⁸.
73. Having regard to the development plan context, the acceptable degree of risk and the resolution of the flooding issue to the satisfaction of the EAW indicated in their letter of 7 September 2007⁷⁹, together with the social and economic benefits that would be derived from the development, the application is supported. The site is one of strategic priority for development and its location primarily in a Class C flood zone can be justified in order to assist the Borough's regeneration initiatives and to contribute to sustaining and enhancing the existing settlements of Merthyr Vale and Aberfan. This development is long overdue and the proposal is commended.

The Case for the Environment Agency⁸⁰

The material points are as follows:

74. Much of the application site is situated within the 1% (1 in 100 year) and 0.1% (1 in 1000 year) fluvial flood boundaries of the River Taff, as shown on the Agency's Flood Zone Map.⁸¹ The proposal involves placing highly vulnerable development, as described in TAN 15⁸², within zone C2 of the DAMs referred to in the TAN. However, there may be material considerations which could outweigh the application of TAN 15 principles with regard to an automatic prohibition on this type of development.
75. Turning to flood risk considerations. Area A is located in zone C1. On the basis of the applicant's FCA⁸³, the Agency is satisfied that the consequences of flooding in Area A can be managed to an acceptable level. Whilst Area B lies mainly within zone C2, there may be feasible sustainable solutions which would allow safe development for housing in this area.
76. Area C also lies in zone C2 and the existing dwellings in this area have previously experienced extensive flooding and are still at risk. The 2005 economic analysis of flood defences indicated that there was no economic case for improving the existing level of protection for Taff Street and Crescent Street⁸⁴. At the time, the Agency also expressed strong technical reservations with regard to raising the river defences in that area as this could

⁷⁸ CD 6.4

⁷⁹ Doc 17

⁸⁰ Docs 6,15,17

⁸¹ CD 7.1; Doc 5(f) appendix SR1 page 206cf

⁸² CD 1.9

⁸³ Doc 5 appendix SR1

⁸⁴ Doc 5(f) Appendix SR1, appendix f, pages 219-222; CD 6.4

- significantly increase the risk to life and property during over design events⁸⁵. As a result, it was supportive of consideration of a scheme to relocate the 112 properties in these two streets to an area offering a greater level of protection and considers this to be a sustainable flood risk management opportunity.
77. The basis for assessing funding for flood defence schemes has changed recently⁸⁶. The primary basis for justifying schemes is now the number of people affected and the degree of impact, with the requirement for a benefit-cost ratio of greater than one being relaxed to allow qualitative factors to be considered, where appropriate. However, the Agency has no current plans to reassess the priority or feasibility of a scheme for Taff and Crescent Streets and even if this was done there is no guarantee that the outcome would be any different. Furthermore, any feasibility study and the possible eventual construction would require prioritisation of funds against the demand for defences elsewhere in Wales.
78. As far as off-site flood risk considerations are concerned, there would be benefits to the existing 36 properties at Nixonville from the proposed concrete stub wall. This would be likely to provide a standard of service equivalent to the 1% probability flood, thereby reducing the existing frequency of flooding. In addition, the new road would provide a safer means of escape than at present for the occupants of Nixonville, should a major flood over and above the 1% event occur.
79. However, the proposal would result in some loss of flood storage volume and conveyance routes across Area B. This would increase flood levels within the Upper and Lower Cottrell Street areas in a 0.1% probability extreme flood event by, in the order of, 210mm to 260mm⁸⁷. There would be increased levels of flooding to a number of properties that are currently already at risk and low level flooding to around 10 additional properties currently not considered to be at risk⁸⁸. This would be contrary to the requirements of Section 7 and Appendix 1 of TAN 15. When a 20% climate change allowance is considered, the number of additional properties at risk in these areas and Bridge Street would increase to in the region of 32⁸⁹.
80. Nonetheless, the Agency accepts that, in principle and subject to the details of any final scheme proposed, the above third party risk is capable of alleviation by constructing a relief channel/culvert running beneath the proposed new road⁹⁰. On this basis, the Agency withdrew its formal objection to the proposal and did not appear at the Inquiry other than to read out a position statement⁹¹ and to participate in the discussion on possible conditions.

⁸⁵ Doc 5(f) Appendix SR1, appendix F, pages 227/8; CD 6.4

⁸⁶ Doc 10

⁸⁷ Doc 6 Appendix 6

⁸⁸ Doc 6 Appendix 4

⁸⁹ Doc 5(f) Appendix SR1 page 91

⁹⁰ Doc 17 letter dated 7 September 2007

⁹¹ Doc 6

81. The Statement of Common Ground⁹² makes it clear that the bio-diversity aspects of the proposals are acceptable to the Agency, as are those relating to the investigation and treatment of any contaminated land. The necessary measures would be capable of being secured through the imposition of planning conditions.

The Cases for interested persons⁹³

The material points are as follows:

82. Huw Lewis AM submitted written representations⁹⁴ and attended the Inquiry. Full support is given to the regeneration of the colliery site for housing, but it is considered that the proposals for the construction of the school (Area A) and the demolition of Taff and Crescent Streets (area C) should be disaggregated. The school is urgently needed and its construction should not be delayed by the consideration of the rest of the scheme. The road links could come at a later time in the project. The demolition of the houses would destroy a long established community and is not justified by the generally good structural state of the dwellings. A door-to-door survey⁹⁵ undertaken in 2006 revealed opposition to the proposal, especially from owner-occupiers some of whom are elderly and who do not wish to become indebted. There is concern about the proposed grant aid packages for those affected. The EAW's assessment of the benefits from a flood alleviation scheme was misplaced because it was founded upon the comparatively low value of the dwellings rather than having regard to the social consequences. Elsewhere protection measures have been provided because the dwellings concerned have had higher capital values. After earlier lobbying and following Ministerial agreement in February 2007⁹⁶, a revised set of assessment criteria based upon the number of dwellings that could be protected, should be undertaken.
83. Mr E Sims submitted written representations and attended the Inquiry. He fully supported the scheme save for the proposed siting of the school on area A. As having been a local councillor and employed by the colliery until it closed in 1989, he was familiar with the commitments made by the Coal Board and the local Council to build a new school in the central portion of the application site, close to the footbridge linking with Bells Hill. Five acres of land (approx 2ha) had been provided for that use. Where now proposed, children would have to walk further to the school.
84. Having worked on the colliery site, he was familiar with the detailed arrangements of the drainage in the area, including that from the mountains that would effect the detailed implementation of the scheme. Flooding in Taff and Crescent Streets involved ground-based water rising through floors and gardens. Parts of the Area A (school site) also appeared to be affected by contamination as seen from the poor quality of the grass cover which resulted in the pony club moving elsewhere. Areas around the old gas works on the former colliery site might also be affected.

⁹² Doc 15a

⁹³ Doc 8

⁹⁴ Docs 8 & 12

⁹⁵ Doc 12

⁹⁶ Doc 12

85. Local residents could be inconvenienced when the 'library' bridge was demolished and replaced by a pedestrian crossing. As previous proposals for a new river crossing have been rejected on flood grounds, care will be needed to avoid this problem. Longer routes would be involved. Care would also be needed to ensure that lorries bringing fill material did not cause an unacceptable nuisance. Pedestrian linkages across the site, such as from Victoria Road to the east, should be incorporated into the layout. In progressing the project, a public liaison committee should inform local residents. Consideration should be given to the effect on the railway viaduct downstream resulting from any increase in the velocity of the River caused by removing shale on the bends.
86. Mr David George of the Presbytery in Nixonville commented that he could not get flood insurance and hoped that the scheme would improve that situation. Mrs Sheila Lewis of 9 Nixonville submitted written representations and attended the Inquiry. Orally, she enquired about the decanting of the residents from Taff and Crescent Streets and about the route of the proposed drainage relief channel. More open space and flat walks with seating areas were needed in the area. In writing, she expressed concern about the closure of local public houses in Aberfan and questioned the inclusion of one within the proposal. Community facilities are also lacking in the village. Concern was expressed about gaining rear access to the proposed stub wall at the rear of Nixonville House and about its possible height. Mr T Minard of 44 Crescent Street submitted written representations and attended the Inquiry. In writing, he stated that the maintenance of Taff and Crescent Streets have been neglected and that despite other areas of the Borough being flooded, there was no proposal to demolish them. Orally, he enquired about possible leakage from the proposed flood relief channel and about the removal of the shale on the bends in the River. He also commented that although the property had been flooded, it had never come up through the floor.
87. Mrs Debra Downing of 34 Crescent Street submitted written representations and attended the Inquiry. She fully supported the proposal and sought a rapid resolution to the long standing uncertainty (10+years) that existed in the area. Desperation was evident amongst residents. She experienced flooding and difficulties in getting insurance cover. Flooding was caused by the River and from the drains. The Street and housing association houses were neglected and residents suffered from anti-social behaviour of others and anxiety. Mrs S. Barnard of 29 Crescent Street, Mrs Bowcott of 49 Crescent Street and Mr David Thomas of 18 Taff Street expressed similar views. Likewise, Mr Jones of 76 Aberfan Road supported the proposal, but expressed concern about the inconvenienced likely to be caused to users of the local churches and health clinics close to the 'library' bridge, when this is removed. He enquired whether it could be kept open for local traffic only.

Written Representations

The material points are as follows:

88. Copies of the letters received in respect of the proposal are appended⁹⁷. The underlying themes concern the delay in resolving the long-standing uncertainty that has affected the well being of both residents in Taff and Crescent Streets and investment in the physical structure of the houses and the general condition of the two streets. In Taff Street these views are especially stressed by those in support⁹⁸ with a number objecting to the demolition of the

⁹⁷ Doc 8

⁹⁸ C Thomas, J Clement, G Jones

houses⁹⁹. In Crescent Street, there is support for the proposed demolition¹⁰⁰, but equally opposition on the general basis that the dwellings are sound, and it would destroy a community and result in owner-occupiers including elderly people, being put into debt¹⁰¹. Shared equity schemes are not attractive to all. Reference is also made to the protection of heritage buildings such as Nixon House and the need for affordable housing, rather than shops, pubs and a nursing home¹⁰². In addition, reference is made to the need for more community facilities in the area as identified in the Planning for Real public engagement exercise held in September 1999¹⁰³ and the preference to retain the Aberfan Park and Mount Pleasant Schools. The Glamorgan Gwent Archaeological Trust note that the 19th century dwellings surrounding the colliery formed an integral part of the industrial, social, political and economic landscape and suggest the imposition of a planning condition requiring the recording of the dwellings prior to demolition.

Draft planning conditions

89. Draft planning conditions and reasons for their imposition that were discussed at the Inquiry are appended¹⁰⁴ in the light of Circular 35/95. These would be also augmented by contractual requirements flowing from the sale of the land to developers. Other than the standard outline conditions, they are brigaded into subject areas. Condition 2 is required to ensure the production of a development brief and to define the proposal, having regard to the need to be specific in terms of floorspace that formed the basis of the technical studies relating to flood risk and traffic generation, together with the avoidance of any potential conflict with retail policy¹⁰⁵. Under condition 5 relating to the flood scheme, clause b(iii) provides some flexibility to ensure that where land ownership is currently unclear and not either the EAW or the Council, suitable statutory measures under 'land drainage legislation' could be used to secure access.
90. Consideration was given to whether condition 6 should be absorbed into condition 17, but applicant and local planning authority concluded that it should stand alone. I find no reason to disagree. The phasing of the development, which is central to the issue of decanting and relocating existing residents of Taff and Crescent Streets, to the provision of the infrastructure and the raising of the ground above the flood risk levels, would be managed through condition 8. In the light of one of the additional matters about which information would be sought¹⁰⁶, condition 9 would require dwellings to be built to the highest standards of sustainable homes. Condition 10 relates to good construction site practice to reduce the impact of development operations upon nearby residents and the riparian environment. Although clause (i) appears to conflict with paragraph 71 of the Circular, its wording only

⁹⁹ K Marshall, Mr & Mrs T Munkley, Mrs & Mrs K Munkley, J G Thomas, A W Pierce

¹⁰⁰ P & L Terrett, R Raney, J & H Day

¹⁰¹ A Harris, A & J Richards, E Richards, W Lewis, Mr & Mrs Hewitt, Mr & Mrs Lee, LW, E & W K Williams, T J & M French,

¹⁰² A Cleaton

¹⁰³ Mrs Hughes

¹⁰⁴ Document 16

¹⁰⁵ *I'm your Man Ltd v SSETR CO/728/98*

¹⁰⁶ See paragraph 5(iv) above

requires a scheme to be submitted and agreed with the Council. The restrictions necessary to safeguard the appropriate routing of lorries away from narrow residential streets and across the 'library' bridge could then be secured through contractual terms. This would respond to local residents concerns¹⁰⁷.

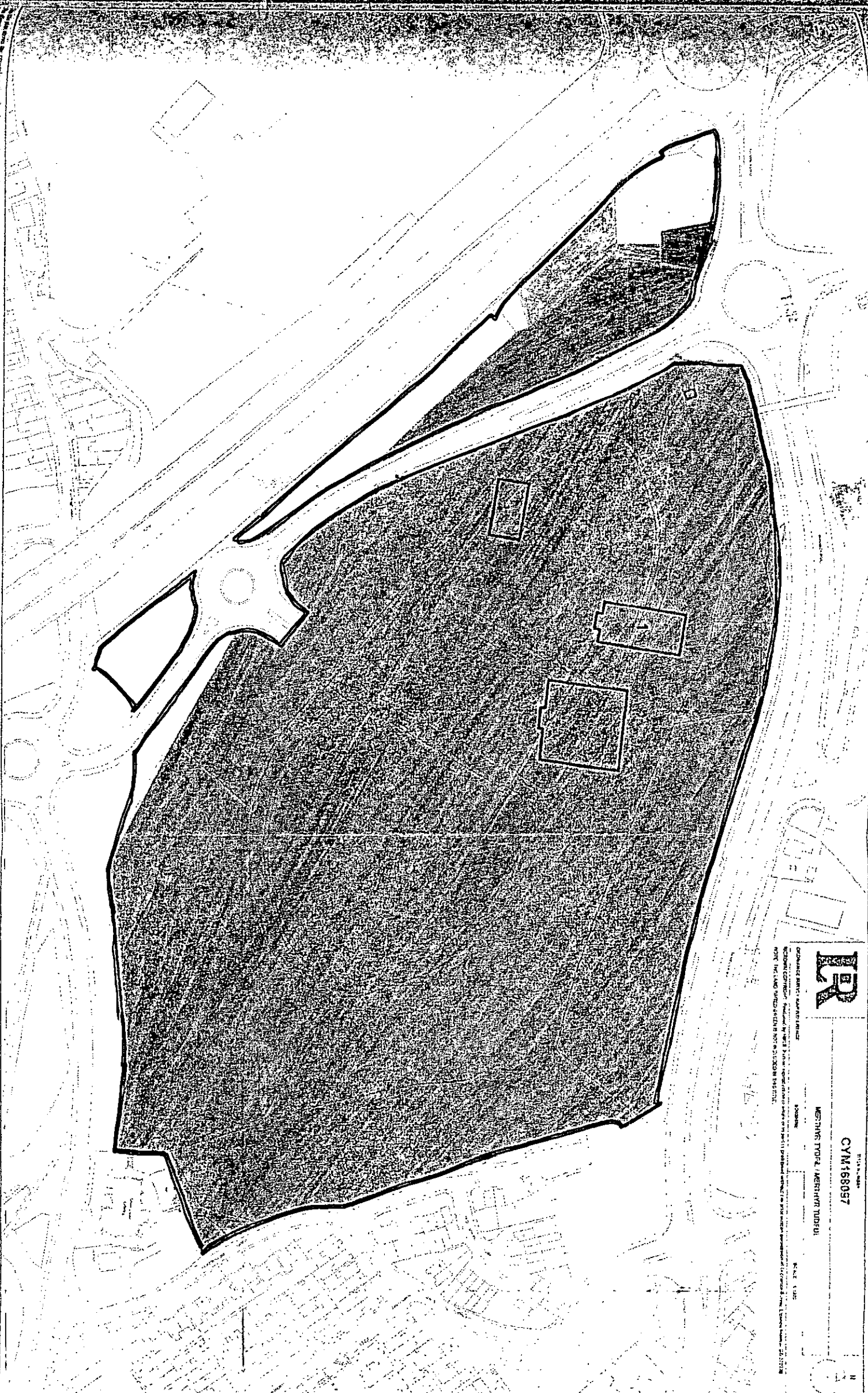
91. The restrictions on working in condition 12 also addresses concerns of unacceptable nuisance by residents, but also the bio-diversity concerns¹⁰⁸. Similarly, under the conditions grouped as relating to landscape and public open spaces, the last part of condition 13 secures the provision and retention of an undisturbed riverside corridor for wildlife. Condition 14 reflects the circular's model condition 31.
92. Discussion occurred as to whether a condition requiring an internal and external survey of the dwellings to be demolished should be imposed, in response to letter from the Glamorgan Gwent Archaeological Trust Ltd¹⁰⁹. No additional evidence was submitted in support of the Trust's views and after discussion, it was agreed that a condition would not be necessary.
93. Under the heading of Highways, the phasing of the development and the replacement 'library' bridge is managed and ensured through conditions 16 and 17, with provision of a new connection to the primary road network secured through conditions 18 and 19. Given the extent of the highway land and its inclusion within the application site, these conditions are capable of implementation. It could be argued that there is no need for the safeguarding of the inclusion of the statutory undertakers' infrastructure within the highway which is permitted under other legislation. However, no objection was raised at the Inquiry and no harm would arise from this reference.
94. In contrast, although it was a matter of concern to local residents that the pedestrian linkage between the west and east banks of the River Taff and to the services close-by (eg: doctors' surgeries) should be retained, the suggested requirement that the linkages should not cease until a replacement link has been installed, could pose practical constructional difficulties. It could also preclude siting the replacement footbridge in the same position as the existing library bridge. Therefore, I consider that the inclusion of a requirement that 'the use of the existing library bridge by pedestrians should not cease until a replacement pedestrian/cycle access has been made available for public use' would be unduly onerous and should not be included in condition 16. The submission of 'details' should be capable of dealing with the matter satisfactorily.
95. Conditions 20 and 21 address drainage issues, which is a critical matter to be dealt with as part of the development's implementation and to prevent further connections to the sub-standard sewerage system. Where appropriate, sustainable drainage systems would be used.
96. Condition 22 requires the provision of affordable housing within the development to reflect the current assessment of need.
97. Under the heading of Biodiversity matters, reflecting the surveys and mitigation measures proposed, condition 23 requires the approval of a habitat management plan that would also address the problem of the invasive Japanese Knotweed that is evident along many parts of the River bank. Condition 24 deals with the necessary mitigation measures in response to the

¹⁰⁷ Mr Sims

¹⁰⁸ Doc 15 : SOCG(a)

¹⁰⁹ Doc 8: letter dated 18 May 2007

THESE PLANS ARE THE PROPERTY OF THE U.S. GOVERNMENT AND ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT PERMISSION IN WRITING FROM THE U.S. GOVERNMENT. THIS NOTICE IS APPLICABLE TO ALL EDITIONS OF THESE PLANS.



ER

CYM168057

WESTING TYO4, WESTING TYO4

1:50,000

SCALE 1:50,000

NOTES: 1. THE LAND SHOWN ON THIS MAP IS NOT TO BE USED FOR ANY OTHER PURPOSE THAN THAT FOR WHICH IT WAS DESIGNED. 2. THE LAND SHOWN ON THIS MAP IS NOT TO BE USED FOR ANY OTHER PURPOSE THAN THAT FOR WHICH IT WAS DESIGNED. 3. THE LAND SHOWN ON THIS MAP IS NOT TO BE USED FOR ANY OTHER PURPOSE THAN THAT FOR WHICH IT WAS DESIGNED.



Handwritten signature or initials.

05/04/73

