

PREFACE ITEM

APPLICATION NO. P/06/0037

APPLICANT(S) NAME: Cray Valley Ltd

PROPOSAL: Redevelop site incorporating 545 residential units and
2.5 acres for a primary school

LOCATION: Waterloo Works Machen

1. This application is a long standing proposal which was originally reported to the Planning Committee on the 20 June 2007 (a copy of that report is attached as an appendix to this preface item). At that time Committee resolved to grant a conditional consent for the development subject to the completion of a Section 106 Agreement.

2. This Agreement was based on:
 - i. The payment of a highway contribution of £2,953,335.00.
 - ii. A sum of £2,599,000 for a primary school building along with a site of 2.5 acres on which the school would be built; and
 - iii. To provide a developable site of 1.5 acres and 16 units of low cost ownership.

3. The last draft of the Section 106 Agreement was prepared in the summer of 2009, but it has not yet been signed and as such the planning permission has not been issued. Planning Committee agreed in 2016 to amend the terms of the section 106 to allow the Education payment to be made on the commencement of the construction of the 100th house, and with the advent of the Community Infrastructure Levy, the highway contribution was dropped.

4. The land owners, Total Limited, have indicated that they intend to clear the site of all contamination prior to pursuing its development for housing. In this regard they are seeking to finalise with the Council and our external consultants a remediation scheme designed to clear the land to a standard that can accommodate residential development and the school. This aim has delayed the completion of the agreement.

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5. In view of the amount of time that has passed since it was resolved to grant permission, it is now appropriate to review whether planning permission should be granted on the basis of the terms set out above. The resolution to grant planning permission was taken in 2007. There have been a number of changes to the policy context since then.

- The adoption in November 2010 of the Caerphilly County Borough Local Development Plan up to 2021 (LDP)
- The amendment of Welsh Government document Planning Policy Wales (PPW) on a number of occasions, the latest being Edition 10 published in December 2018
- New version of the following Welsh Government Technical Advice Notes (TANs) which are of relevance to this scheme:
 - TAN 5, Nature Conservation and Planning (2009)
 - TAN 12: Design (2016)
 - TAN 18: Transport (2007)
- The publication by Welsh Government of its Development Management Manual which sets out the information needed to support a planning application.

Consideration will be given below to those policies that are relevant to a review of the original resolution.

6. Caerphilly County Borough Local Development Plan up to 2021

6.1 The site is still allocated in the LDP for residential development of around 545 dwellings, and therefore there are no objections in principle to the proposed development. Policy SP6 of the plan refers to Placemaking, and requires development, amongst other things, to have a location and layout that reflects sustainable transport and accessibility principles and provides full, easy and safe access for all. Policy SP7 refers to Planning Obligations to overcome obstacles to development including:

- Infrastructure for walking, cycling, public transport, parking
- Schools and ancillary facilities
- Community Facilities
- Formal and informal open and leisure space
- Affordable housing and
- Other facilities and services considered necessary

Policy SP10 states that the Council will protect, conserve, enhance and manage the natural heritage of the borough.

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6.2 The following countywide policies are also of relevance. Policy CW3 addresses the design considerations for highways including the need to promote the interest of pedestrians, cyclists and public transport before that of the car. Policy CW10 seeks the provision of leisure and open space provision. Policy CW11 seeks the provision of affordable housing, with the target in this area being 40% of the total number of dwellings.

7. Planning Policy Wales Edition 10 December 2018

7.1 The format and content of PPW was recently changed to reflect the Well-being of Future Generations Act. It contains a significant emphasis on placemaking, the outcomes of which include accessible and high quality green space; accessibility by means of active travel and public transport; no car dependency; minimising the need to travel; convenient access to goods and services; and promoting physical and mental health and well-being.

8 Technical Advice Notes

8.1 TAN 5, Nature Conservation and Planning (2009) states that Biodiversity conservation and enhancement is an integral part of planning for sustainable development.

8.2 TAN 12: Design (2016) sets out the objectives of good design which include: ensuring ease of access for all, promoting sustainable means of travel, enhancing biodiversity, ensuring attractive and safe public spaces, and promoting quality, choice and variety.

8.3 TAN 18: Transport (2007) draws attention to changes in travel patterns brought about by land use change in the future which are likely to be incremental, but over the medium to long term could significantly reduce the need to travel and ensure that effective use is made of public transport options, walking and cycling.

9. Development Management Manual

9.1 Where appropriate, an application for outline planning permission must include the following information:

- Biodiversity Survey and Report
- Flood Consequences Assessment
- Coal Mining Risk Assessment
- Noise Assessment
- Transport Assessment
- Tree Survey

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10. Analysis

- 10.1 It is important to bear in mind that this land is allocated for housing in the LDP, and it would represent the redevelopment of a large brownfield site. Therefore, this report will not argue against the principle of development at this site, but will consider whether the application can still be recommended for approval bearing in mind the amount of time since its submission and the changing policy context.
- 10.2 The site is relatively isolated. The small village of Waterloo, itself isolated, lies immediately to the south. As it stands, residents of the new development would more than likely drive to any facilities. More recent proposals in association with their transport assessments provide evidence of how the use of means of transport other than the private car are going to be encouraged. Opportunities are shown in the LDP with the former railway lines to the north and south of the site safeguarded for cycle routes. Those improvements, which may include enhancements to the local cycle and pedestrian network, and inducements to use public transport, are usually secured through a section 106 agreement.
- 10.3 In view of the size of the development, a range of play facilities would be required, and a contribution to their maintenance secured through a section 106 agreement.
- 10.4 The target for affordable housing is 40% of the total housing, which on the basis of the LDP allocation would be 218 units. The resolution to grant planning permission only sought 16 units and 1.5 acres (0.6 hectares) of land for affordable housing. The delivery of affordable housing is sensitive to the viability of the development of the site, and has to be balanced against the other matters secured through the section 106 agreement, including in this case, the need for an educational facility on site which is also identified in the LDP. In view of this site's semi-rural location and the location of the River Rhymney Site of Importance for Nature Conservation along its northern boundary, wildlife habitat enhancement would also be sought. No doubt the developer would wish the cost of remediating the site to be taken into account as well
- 10.5 It is evident that the section 106 agreement needs to be reconsidered to reflect the changed policy context.

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10.6 The original application was accompanied by an Environmental Statement submitted in accordance with the then Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. That statement included sections covering the following areas:-

- (1) Planning Supporting Statement;
- (2) Development Framework and Design Statement;
- (3) Noise, Vibration and Dust Assessment;
- (4) Transportation Assessment;
- (5) Ecological Assessment;
- (6) Land and Visual Impact Assessment;
- (7) Flood Risk;
- (8) Remediation Strategy.

In that respect, the submission covers many of the requirements set out in Development Management Manual apart from the need for a Coal Mining Risk Assessment, which was only introduced in 2009. However, the Planning Supporting Statement, Transportation Assessment, and Ecological Assessment would have to be brought up to date to reassure the Local Planning Authority that it was granting planning permission for development on a sound basis in those respects. Also, there may be other aspects of the ES that would have to be amended to reflect the new EIA Regulations of 2017, and any relevant case law that has arisen since the original resolution to grant planning permission.

10.7 Although not mentioned above, consideration should also be given to TAN15 Development and Flood Risk. Approximately half of the site is within Flood Zone C2 as defined by the TAN where highly vulnerable development such as housing should not be permitted. There have been appeal cases in recent years where The Planning Inspectorate have appeared to take a more prohibitive approach to residential developments on Flood Zone C2. This is another matter that should be reviewed before the Local Planning Authority grants planning permission.

10.8 The Joint Housing Land Availability Study published in August 2018 concludes that this borough has a five-year land supply of 2.3 years. This has been a significant consideration in the determination of planning applications for housing on unallocated sites in the borough. This site, despite the resolution to grant planning permission, does not currently contribute to the land supply. As already stated, there are no objections in principle to housing on this land, but the uncertainties set out above in respect of the application as a result of the time that has passed since the original resolution would outweigh the need to improve the land supply.

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11. Conclusion

- 11.1 The planning application and the resolution to grant planning permission subject to a section 106 do not adequately reflect the current planning policy context. There is a strong likelihood that the Environmental Statement that supports the application needs to be brought up to date before the Local Planning Authority can consider the acceptability of the proposed development. Therefore, it is recommended that planning permission is refused.

RECOMMENDATION: That planning permission is refused for the following reason:

The proposed development does not make adequate provision for affordable housing, public open space, nature conservation enhancement, and for travel by means other than by car, as required by policies CW11, CW10, SP10 and CW3 respectively of the adopted Caerphilly Country Borough Local Development Plan up to 2021. Nor does it pay sufficient regard to the principle of placemaking as set out in Planning Policy Wales Edition 10 of December 2018.

Code No. and Date Received	Name and Address of Applicant	Description and Location of Proposed Development
P/06/0037 13.01.2006	Cray Valley Ltd C/O DTZ Pida Consulting Marchmount House Dumfries Place Cardiff CF10 3RJ	Redevelop site incorporating 545 residential units and 2.5 acres for a primary school Waterloo Works Machen

APPLICATION TYPE: Outline Application

SITE AND DEVELOPMENT

Location: The site is located to the north of the village of Waterloo and is sited some 2.5 miles east of Caerphilly town. The site also lies approximately 7 miles from Junction 28 of the M4 motorway.

The site is bounded to the south by a small number of houses (i.e. Waterloo) and open countryside, to the east and west by open countryside, and to the north by the River Rhymney, beyond which is the A468 Caerphilly to Newport road.

The land has until recently been occupied by a company that produced specialist paint resins. The majority of the operation closed in 2003 and works were subsequently commenced to demolish the industrial buildings on site approximately one year later.

Within the site, however, was located an independent paint manufacturer (i.e. Valspar) whose lease terminated in the autumn of 2006.

The site is relatively flat although there is an elevated railway embankment along the western boundary and raised bunds along the banks of the River Rhymney to the north.

The vast majority of the application area was covered in industrial buildings, offices and plant installations. However, approximately one-fifth of the site is undeveloped and comprises mostly open, grassed fields in the north-eastern corner of the site.

Development: The proposed application is an outline submission which seeks to reserve all detailed matters.

The scheme as originally submitted was for the redevelopment of the site to incorporate 495 residential units and over 5,780 square metres of employment space and community facilities. As the application progressed, discussions between your Officers and the applicant and their agents has resulted in a changed description which reads "redevelopment of the site incorporating 545 residential units and 2.5 acres for a primary school."

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The result of this revised outline proposal is that the buildings on the site that were shown as being retained for employment purposes (mainly the existing research and development and office buildings towards the front of the site area) are to be demolished to allow for the additional housing, etc. Illustrative layouts have been submitted as part of the proposal, however, these do not form part of this proposal (other than as guidance).

In view of the scale and complexity of the proposal, the application was accompanied by an Environmental Statement submitted in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

This statement included sections covering the following areas:-

- (1) Planning Supporting Statement;
- (2) Development Framework and Design Statement;
- (3) Noise, Vibration and Dust Assessment;
- (4) Transportation Assessment;
- (5) Ecological Assessment;
- (6) Land and Visual Impact Assessment;
- (7) Flood Risk;
- (8) Remediation Strategy.

The purpose of this Environmental Statement is to identify and evaluate the potential environmental effects of the proposed development and to draw together the assessment of the proposals to a mix of both the public and decision matters in understanding the environmental issues surrounding the proposed development.

The applicant held a two day, pre-application consultation exhibition at the site, where an opportunity for the public to comment was allowed.

Dimensions: The application site area as indicated in the amended form (i.e. for 545 houses and 2.5 acres for a primary school) totals 16.68 hectares (41.2 acres). Of this 13.4 hectares comprises the works and the car park area on the eastern side of the road into Waterloo, whilst 3.25 hectares of land is currently undeveloped.

It is intended to locate the school and junior size sports field towards the north-eastern corner of the site, however, the exact position has not yet been finalised.

The site is an irregularly shaped area of land measuring approximately 150 metres at its widest point (north to south) and approximately 400 metres at its longest point (east to west). Its frontage with Waterloo Road measures 110 metres.

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To add to this main area, there is the triangular shaped parcel of land which served as a car park for the Cray Valley operation. This measures approximately 90 metres along its base and 100-110 metres on each of its sides. This area abuts onto housing on Waterloo Place along its southern boundary.

Materials: None.

Ancillary development, e.g. parking: None.

PLANNING HISTORY

As would be expected, the site has a range of approvals for office and industrial buildings over the years. The live applications of direct relevance to this current proposal are the last two on the following list.

5/5/91/0237 - Erect mess room/office/toilet facilities - Approved 20.05.91.

5/5/91/0238 - Erect laboratories and offices - Approved 30.05.91.

5/5/92/0195 - Re-roof, provide overcladding and erect extension to building 14 - Approved 15.05.92.

5/5/92/0558 - Erect sign - Approved 16.10.92.

5/5/92/0764 - Construct new amenity building - Approved 11.02.93.

5/5/93/0189 - Erect industrial unit for storage of drums, raw materials and finished products - Approved 06.03.93.

5/5/94/0439 - Re-clad building 24 to improve amenity of site - Approved 12.08.94.

P/96/0120 - Erect group of buildings within existing site boundary for housing of plant and machinery used for the manufacture of synthetic resins - Approved 24.10.96.

P/97/0817 - Construct a control room and electrical switch room adjacent to building 38, an existing production building - Approved 27.10.97.

P/99/0878 - Store toluene di-isocyanate (HSC) - No objections 25.11.99.

P/04/1891 - Excavate, on-site treatment and backfilling of approx 15,000 cubic metres of contaminated soils - no significant change to levels across site are proposed - Approved 08.12.05.

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P/06/0629 - Excavate, on-site treatment and back filling of approximately 21,000 cubic metres of contaminated soils with no significant change to levels across site proposed - Granted 07.12.06.

Applications P/04/1891 and P/06/0629 both deal with the on-site remediation of the land which is necessary for the after-uses currently proposed to be carried out.

The difference in the proposals is that the first application addresses the site remediation with the Valspar operation of approximately 2.7 hectares (i.e. 6.6 acres) not included.

Valspar subsequently vacated the site in 2006 and, as such, the second application for an overall remediation scheme was submitted and approved in December 2006.

The site remediation works are currently continuing on site.

POLICY

Site Allocation

Development Plan: The Adopted Caerphilly Basin Local Plan covered the whole of the Basin area which extended east to include Waterloo. In this Plan, the site is shown as forming part of an employment site (i.e. E1 Waterloo Works). The vast majority of this designation is contained within the settlement boundary of that Adopted Plan. An area of 0.85 hectares does project into the open countryside.

Council Approved UDP: This Plan once again shows the site as being mostly within the identified settlement boundary and as being an identified industrial estate known as Waterloo Works.

Policies

Development Plan: The Adopted Caerphilly Basin Local Plan contains Policy E1 which seeks to channel industrial developments into certain identified sites, one of which is the Waterloo site. Also of relevance is Policy EV1 which presumes against development in the open countryside and Policy S3 of the Adopted Mid Glamorgan County Structure Plan (1989) which also presumes against development in the open countryside.

Council Approved UDP: This Plan contains a range of policies of relevance to this proposal. These are as follows:-

- DC1 - Development Criteria
- DC2 - Settlement Boundary
- DC3 - Planning Guidance

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E2 - Protection of Existing Industrial Premises
E3 - Protection of Existing and New Industrial Sites
H2 - Development on Unallocated Sites
H3 - Affordable Housing
C12 - Special Landscape Area
C13 - Trees, Woodlands and Hedgerows
1T(B) - Transport Strategy
L9 - Open Space Provision
L10 - Outdoor Sport Provision
CF5 - New School Buildings

Attention has also been paid to the following:-

National guidance contained in Planning Policy Wales (PPW) and TANs 2 (Affordable Housing), 12 (Design) and 15 (Development and Flood Risk).

The PPW guidance was particularly relevant in respect of the use of brownfield land for new development.

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes.

Was an EIA required? Yes. The proposal was the subject of a screening exercise prior to the application being submitted. In view of its past use, its scale, location, etc., it was considered that an Environmental Impact Assessment was required under Schedule 2 sub-section 10 (Infrastructure Projects).

A subsequent screening opinion was requested by the current applicant and this was provided. An Environmental Statement was thereafter submitted which addressed the issues found relevant in the scoping opinion.

CONSULTATION

Dwr Cymru - Raises no objections subject to the imposition of conditions relating to the provision of details of foul, surface water and land drainage at the site. It also made a number of comments on drainage issues which it requires to be forwarded to the developer to address.

Environment Agency (Wales) - Considers the proposal under four separate headings:

- (a) Flood risk;
- (b) Ground water and contaminated land;
- (c) Biodiversity;

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(d) Other issues - e.g. Land Drainage Act, responsibility, maintenance of watercourses, etc.

(a) With regard to the first of these, it originally objected to the proposal from a flood risk perspective. Additionally, information has been provided as an addendum to the previously submitted flood consequences assessment. This information now allows the Environment Agency to withdraw its objection.

(b) The Agency considers that any issues raised here can be dealt with by way of condition.

(c) No objection is raised on this basis.

(d) The points raised here are ones that are best forwarded to the developer as advice in an accompanying letter should consent be granted.

Wales & West Utilities - Has apparatus within the site and comments that extreme caution should be used in view of the pressurised gas plant in the vicinity.

Head Of Public Protection - Comments that he raises no objection in principle to the proposal, however, he would wish to see gas monitoring undertaken at the site as part of the remediation work previously approved. He does, however, require a range of conditions to be imposed which not only address the gas monitoring issue but also deal with site remediation matters, dust and noise mitigation, hours of operation during construction, etc.

Group Manager (Transportation Planning) - Raises no objection although he requires a range of information to be obtained by way of condition. He also requires the payment of money in line with the standard planning obligation in respect to contributions to improvements of the strategic highway network.

Manager (Countryside And Landscape Services) - Raises no objection to the proposal and makes comments on ecology, landscape, sustainability and design which he feels should be incorporated into the scheme. The Council's Ecologist requests conditions be imposed which take account of habitat requirements.

Senior Engineer (Land Drainage) - Raises no objection, however, he itemises a list of matters which the applicant will need to be mindful of which are required to be forwarded to the applicant/developer if consent is granted.

Head of Lifelong Learning & Leisure - Requires a junior football pitch and a "micro-park" to be incorporated into the scheme. Through discussion between the parties, it has been agreed that the pitch will be provided in association with the school and be a dual-use facility as will the related changing facilities.

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Director of Education required an educational provision to serve the development. This has been secured by your officers by the amended description of the development to include a school and sufficient land to accommodate it. The financing of this provision will be secured by way of a Section 106 Agreement.

Chief Housing Officer - Comments that in respect of affordable housing, a requirement of 1.5 acres of developable land and the units of low-cost home ownership have been agreed upon.

This arrangement will be secured by way of a Section 106 Agreement clause.

Police Architectural Liaison Officer - Considers that the development should be undertaken in accordance with the requirements of the "Secured by Design" scheme. This advice can be passed on to the developer should consent be granted.

Cadw - Comments on the proximity of the Scheduled Ancient Monument known as Rudry Ironworks. It notes, however, that the development is located on the other side of the disused railway line and should therefore not be affected by this proposal.

Newport City Council - Has made no comment on the application.

Glam/Gwent Archaeological Trust - Comments that there are no archaeological features located inside the application area.

Countryside Council For Wales - Confirms that the site has no Sites of Special Scientific Interests, etc. It also welcomes the "positive attitude and commitment towards nature conservation" outlined in the Environmental Statement. It has no further comments to make at this time but awaits the Environmental Management Plan that will be submitted with the detailed application.

Cardiff City Council - Raises no objection to both the original and amended proposals.

Western Power Distribution - Has apparatus within the site.

Bedwas, Trethomas & Machen Community Council - Has made no comment on the application.

ADVERTISEMENT

Extent of advertisement: The application was advertised in the press and on site by way of eight site notices. Neighbour notification letters were also sent to properties in the area.

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Response: As a result of this consultation exercise, nine letters and a petition were received objecting to the original scheme and a further three letters were received objecting to the amended scheme. As much of the objections referred to issues such as highway effects, disturbance to existing properties, the over-provision of dwellings within the Borough, it is considered that the 12 letters and the petition can be viewed in respect of the amended scheme.

Summary of observations: The basis of the objections raised are as follows:-

- (1) The country lanes in this area cannot accommodate the additional vehicles in capacity terms.
- (2) The proposal is contrary to Council policy.
- (3) The roads are already dangerous as vehicles speed through them causing accidents in their restricted widths, "sleeping policemen" may help.
- (4) There is a need for a secondary school not only a primary one. Where will the children from this site be schooled?
- (5) The proposal may result in anti-social "gangs" causing trouble in the area.
- (6) Will existing residents have to pay for road improvements?
- (7) Nuisance will be caused to existing properties from additional traffic movement.
- (8) Alternative roads should be constructed to allow vehicles to access and egress the site directly onto Newport Road at a point to the west of the current junction.
- (9) More houses means more revenue for the Council. However, this revenue is not being reinvested in the community, i.e. "better schools, playing fields, etc."
- (10) The development will reduce "the standard of living in the area."
- (11) The remediation of the land could result in effects on people living close to the site.
- (12) Loss of fieldmouse habitats will occur.
- (13) Adverse impacts may result that could cause problems regarding "water, drainage and electricity supply."
- (14) There is a need for a surgery to serve the area.
- (15) Now will the loss of jobs at Cray Valley be addressed?
- (16) Local infrastructure is inadequate to deal with such a scheme.
- (17) Public transport in the area is inadequate.

The petition was signed by 70 residents from the Waterloo area.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonable can to prevent crime and disorder in its area?

Crime and disorder are considered to be issues in this instance but at this stage, the advice of Gwent Police with regard to "Secured by Design" will be forwarded to the applicant for guidance on security aspects. Any reserved matters details will have to show that secure by design principles have been taken into account.

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EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? The issue of this Directive was addressed as part of the site remediation works authorised under planning permissions: P/04/1891 and P/06/0629. As a result, a Licence application in respect of the dormice has been made to the Welsh Assembly Government.

ANALYSIS

Policies: Section 38 of the Planning and Compulsory Purchase Act 2004 requires all development control decisions to have regard to the Development Plan in force in determining applications. This replaces Section 54A of the Town and Country Planning Act 1990. Development Plan Policy is therefore an important consideration in respect of this site.

In the area of the proposed application site, the Development Plans comprise the Adopted Mid Glamorgan Country Structure Plan (Approved Plan Incorporating Proposed Alterations No. 1) (1989) and the Adopted Caerphilly Basin Local Plan (1983).

The Authority has, however, approved the Caerphilly County Borough Council Unitary Development Plan 1996-2011 as a basis for more up-to-date decision making framework.

The Authority is also in the process of producing a Local Development Plan (LDP) which will supersede the existing plans.

Turning to the specific policies contained in the Development Plan, these are E1 (Industrial Sites) and EV1 (Protection of the Countryside) contained in the Adopted Caerphilly Basin Local Plan. Also, Policy S3 of the Adopted Mid Glamorgan Structure Plan which again seeks to protect the countryside from industrial development.

Because of overlap in wording and intent, it is considered that Policy E1 can be addressed when considering Policy E3 of the Council Approved Unitary Development Plan and Policies EV1 and S3 can be also considered when Policy DC2 of the Unitary Development Plan is assessed.

In respect of the UDP Policies itemised in the Policy section above, the analysis of those of relevance is as follows.

Policy DC1 (Development Criteria) contains a range of standards against which all development is assessed. In respect of this proposal, the following fall to be assessed:

- (A) Is the development compatible with other land-uses in the vicinity?
- (B) Is it well designed in terms of its setting, scale, density, layout, materials and landscaping?

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- (C) Does it have regard for the effective, safe and efficient use of the transportation network?
- (F) (F) Would it prejudice the wider comprehensive development of adjacent land?
- (H) Would it have an unacceptable impact in terms of pollution?
- (I) Would it increase the risk of flooding?

With regard to (A) it is evident that the vast majority of the site is contained in the settlement limit of the Development Plan and the Council Approved Unitary Development Plan. At present, the industrial area is in close proximity to the village of Waterloo. In land-use terms, it is considered that the proposed development is more compatible with the existing residential and countryside surroundings than the industrial operation.

It is accepted therefore that this criterion is complied with.

With regard to the detailed issues specified in criterion (B), it is noted that the majority of these are relevant for the reserved matters submission. However, in respect of density, it is evident that the overall developable area is 16.7 hectares; of this 2.5-3 acres is required for a school, leaving a nett area of 13.7 hectares (i.e. 33.9 acres). This will allow for a density of approximately 16 dwellings to the acre.

This would be considered medium/high and would be accepted in density terms on this site.

With regard to the transport network. i.e. criterion (C), Group Manager (Transportation Planning) requires a Travel Plan as a condition if permission is granted. This will look to maximise public transport usage in accordance with this criterion.

In respect of criterion (F), the site is relatively self-contained within the limits of the settlement area and will not therefore prejudice the implementation of wider comprehensive development.

Criterion (H) concerns pollution implications. The current development will only be allowed to proceed on the basis that the site has been remediated in respect of past contamination. As such, this proposal and its related remedial schemes will have cleared up pollution in the area when they are complete.

Finally, the issue of flooding, criterion (I), is one that has been addressed by Environment Agency (Wales) in its consideration of the Flood Consequences Assessment. The Agency has now withdrawn its original objection in this regard and, therefore, the matter of flood prevention has been addressed.

In respect of Policy DC1, it is considered that all the relevant criteria applicable to this application are complied with.

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Policy DC2 (Settlement Boundary) seeks to protect the identity and viability of settlements by restricting development outside those boundaries.

In respect of this scheme, with the exception of the south-western corner, the site lies within the settlement boundary as defined by Policy DC2. This area comprises approximately 0.9 hectares. This is an area, at the detailed layout stage, that the landscaping scheme could indicate as open space.

This area is a small section owned by the applicant on this boundary. It is considered that its inclusion in the overall scheme is acceptable provided all relevant planning policies and development control considerations are met.

It is not felt that the integrity of this policy is compromised by this minor inclusion on a very substantial scheme which could yield considerable environmental, economic and social benefit in this area.

It is considered therefore that Policy DC2 of the Council Approved Unitary Development Plan, Policy EV1 of the Adopted Caerphilly Basin Local Plan and Policy S3 of the Adopted Mid Glamorgan County Structure Plan are satisfied.

Policy DC3 refers to planning obligations which can be used to overcome land-use obstacles, contribute towards infrastructure or mitigate the impact of development on an area.

In this instance, your officers have negotiated the provision of the school (including changing rooms) at the applicant's expense, a contribution towards highway improvements totalling £2,953,335.00, as well as 1.5 acres of developable land and sixteen low-cost dwellings in respect of the affordable houses requirement.

It is considered that this justifiable gain to the community is a fair reflection of the additional requirements that the development will result in when complete. As such, Policy DC3 has been utilised satisfactorily in this respect.

One of the main issues in the policy consideration of this application refers to its employment designation in both the Adopted Caerphilly Basin Local Plan and the Council Approved Unitary Development Plan. This designation is without doubt an historic one which has been accepted and included in both plans because it exists at this rural location.

Officers considered that the preferable way to assess the redevelopment of the site for residential etc. use was via the emerging Local Development Plan. The applicant's timeframe, however, did not allow for this "delay" and an application was received.

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The current advice indicates that development control decisions must be made in accordance with the Adopted Development Plans unless material considerations determine otherwise. As such, the land-use identification contained in these Plans is as an employment site.

In considering this, the relevant policies on employment need to be assessed. These are Policies E2 and E3 of the Council Approved Unitary Development Plan and E1 of the Adopted Caerphilly Basin Local Plan.

The Waterloo Works site is protected under Policy E2 - Protection of Existing Industrial Premises (E2.35 Waterloo, Machen). This Policy states that "the expansion, conversion or redevelopment of premises for uses falling within B1, B2 and B8" will be permitted on this existing industrial site.

Policy E2 should be considered alongside Policy E3 in respect of the Protection of Existing and New Industrial Estates. The wording of Policy E3 is as follows:-

"On existing and new employment sites identified in Policies E1 and E2, development of uses that are not contained in Classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) will not be permitted unless:

- A. There is demonstrable evidence that a site is in general terms no longer needed for any of the specified use classes and is unlikely to be developed for such purposes and that in respect of the alternative development proposed there is a proven need for such development and/or it would provide a demonstrable local benefit; or
- B. The proposal is for a small-scale use ancillary to the industrial estate and/or serving the needs of those employed there."

In respect of the first part of Criterion (A) (i.e. that the site is no longer needed for its use) the results of the Caerphilly Employment Sites Supply and Market Appraisal Study are of relevance. This study was commissioned by this Authority.

Consultants at Atkins were commissioned in 2005 to produce an employment study with the aim of reviewing the current availability of employment land and premises in the County Borough, to consider the opportunities to release some older industrial sites for other uses and to strengthen the case to retain others and to undertake a market assessment of the suitability of employment sites. This study will serve to inform the preparation of the Local Development Plan.

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Application No. P/06/0037 Continued

Waterloo is judged to provide a marginal employment function having performed poorly on the scoring matrix (less than 55%). The study identifies that the site could perform well as an employment site if redevelopment was to occur, however, the site may be more appropriately developed for mixed uses, retaining an employment function. The study recommends that the employment status of the site be reconsidered and the Local Development Plan process offers the opportunity to do this.

One of the primary purposes of the Atkins study is to inform the evidence base for the LDP. One of the provisional findings of the study is that the Waterloo site provides only a marginal function and its use should be reconsidered.

The site has subsequently been assessed for its suitability for a housing based mixed-use development as part of the LDP process. The results of the provisional assessments were made available in April 2007 as part of a site register and the site has been identified as suitable for further consideration through the LDP process for a housing based mixed-use development. It should be noted that the site assessment process is provisional at this stage.

The site has now been cleared of the majority of buildings and plant installations, including those occupied by Valspar up until Autumn 2006. There has been no subsequent evidence of interest in the site being developed for industrial purposes.

In view of the results of the study and the preliminary assessment of the site in respect of the LDP, it would appear reasonable to conclude that sufficient employment land exists in the County Borough to meet its requirements. Also, the Waterloo site has performed poorly in terms of employment suitability and therefore there is credible evidence that the site is no longer needed for any specified use classes and is unlikely to be developed for such purposes.

With regard to the second element of criterion (A), this states that in respect of the alternative development proposed, there is a proven need for such a development and/or it would provide a demonstrable local benefit when the application was first submitted it was considered that the applicant had failed to demonstrate that there was a need for the proposed development, particularly in the light of the 11.5 year housing supply as of the 1st July 2004 Housing Land Availability Study.

As part of the ongoing work on the LDP, however, consideration is being given to a range of housing requirements for the plan period 2006 to 2021 of between 500 houses a year (based on the assumption of migration balance) and 750 houses a year (based on the apportionment exercise carried out by the South East Wales Strategic Planning Group on the WAG Regional Household Protection). It is therefore considered that this site would be crucial in contributing to the housing requirement for the LDP period.

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Application No. P/06/0037 Continued

In addition to the above "a demonstrable local benefit" may be demonstrated by the provision of the primary school, as well as the other contributions achieved under Policy DC3.

Therefore, having regard to these issues and the result of the Atkins employment study an objection to the application in relation to Policy E3, criterion (A) could not be sustained.

Criterion (B) is not relevant in this case.

As Policy E2 was considered alongside E3 then both are felt to be not applicable in this case. Also, Policy EV1 of the Adopted Caerphilly Basin Local Plan is likewise not relevant if it seeks to promote a site which is no longer needed to satisfy the employment function in the district.

No objection is therefore raised regarding the employment policies and obligation.

Turning to the relevant housing policies (i.e. H2 and H3) it is contended that in respect of Policy H2 (Development on Unallocated Sites), the proposal would not constitute either insensitive and/or inappropriate infilling or the residential amenities for new houses would be detracted from by neighbouring land uses.

As such, this policy is complied with.

In respect of Policy H3, discussions have taken place between officers of the Planning and Housing Divisions and an allocation has been agreed upon. This affordable housing requirement will subsequently be secured by way of a Section 106 clause which has been agreed to by the owner and will be completed on this agreed basis prior to consent being granted if Committee so resolve.

Policy H3 is also capable of being complied with.

With regard to the countryside policies (i.e. C12 - Special Landscape Areas and C13 - Trees, Woodlands and Hedgerows) it is considered that in respect of the Special Landscape Area designation the only area involved is the small area in the south-western corner of the site which is outside settlement limits. In the absence of layout details etc., it is not possible to categorically state that there will be no harmful impact on landscape features etc., however, control will lie with the Local Planning Authority at the detailed design stage to shape the form the development will take in this area of the site.

Policy C12 is therefore satisfactorily addressed.

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Application No. P/06/0037 Continued

In assessing Policy C13, it is recognised that landscaping is a reserved matter. However, it was also one of the topics addressed as part of the scoping exercise and therefore included in the Environmental Statement submitted with the application. With regard to the Trees, Woodland and Hedges, care was taken in the assessment of potential development to minimise the loss of any existing vegetation. It is therefore essential that the landscape information to be submitted as part of the reserved matters application refers back and builds on the information contained in the Landscape Impact Assessment. If this is done, it is considered the requirements of Policy C13 will be met.

Policy 1T(B) deals with developments which are likely to be major traffic generators. This being the case, they must address the following:

- (A) Minimise the need to travel;
- (B) Are, or are capable of being, served by public transport;
- (C) Facilitate other alternatives to the private use of cars;
- (D) Minimise the adverse environmental and amenity impacts of traffic.

The Environmental Statement contained a Traffic Impact Assessment in respect of this scheme. This was analysed by the Group Manager (Transportation Planning) and was found to be acceptable subject to the implementation of conditions and the payment of approximately three million pounds towards improvements to the strategic highway network.

One of the conditions proposed also requires the submission of a "Green Travel Plan" which is specifically designed to address some of the above-mentioned criteria.

In respect of this policy on transportation strategy, it is accepted on the basis of the Group Manager (Transportation Planning)'s response, that the Traffic Impact Assessment complies with this policy.

With regard to the level of open space provision to serve the site (i.e. Policy L9) any development of over 25 houses must provide such space and children's play facilities either on-site or as a commuted sum for off-site provision.

In this instance, it is considered that such incidental space shall be included in the required masterplan for the site, which will form a condition on any consent granted.

In view of the scale of this development, Policy L10 is also relevant. This requires that housing development in excess of 200 properties should have adequate provision of land for outdoor recreation space.

In this regard, the Authority has negotiated sufficient land and finance to provide for a junior sized football field and changing facilities to serve the development. This will also be able to be used by the primary school during the academic day.

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Application No. P/06/0037 Continued

On the above basis, your Officers consider that Policy L10 is addressed.

The last UDP Policy of relevance is CF5 - New School Buildings. This provides basic requirements to be included within any new school. These requirements include matters such as design issues, highway safety arrangements, etc. In view of the outline nature of this application, the detailed matters relating to the school are absent. However, the school construction, finance and external playing pitch facilities have been secured in the proposal and the associated Section 106.

At the detailed stage, the Local Planning Authority can ensure that the criteria contained in this policy are implemented.

In respect of the Development Plan and the Council Approved Unitary Development Plan, it is considered that there are no policy objections which can be raised to sustain a refusal of permission.

Planning Policy Wales is particularly relevant to this development in respect of the advice given on the re-use of land in preference to greenfield sites.

The current site has undergone a large-scale remediation exercise to clear up past industrial contamination. It has also been cleared of substantial buildings which, with their high stacks and large scale, were particularly out of keeping with the rural environment within which the operation was sited.

Because of the proposed after-uses, the site remediation has been to a high standard. This is considered to be beneficial not only to prospective residents of a new development but to existing residents and the local environment.

With regard to the advice contained in the TANs, an acceptable Design Statement was included with the Environmental Impact Assessment and a Flood Consequences Assessment was also submitted as part of that document. Environment Agency (Wales) has subsequently agreed with the conclusions contained in that assessment.

Therefore, the advice given in TAN 12 (Design) and TAN 15 (Flood Risk) have been included in the processing of this proposal.

In conclusion, there are not considered to be any policy reasons to object to this development.

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Application No. P/06/0037 Continued

As the proposal is contrary to the identified designation in the Development Plan, it was necessary to advertise the original application and the amended description as departures from that Plan. In accordance with the Town and Country Planning (Development Plan Consultations) Direction 1992, the matter must be referred to the Welsh Assembly Government for its consideration. A period of 21 days must be allowed for a response. No permission can be given by this Authority within that period.

Comments from Consultees: It is evident from the above comments that none of the Consultees raise objection to the application. A number did, however, raise issues which are required to be controlled by way of the imposition of conditions attached to any consent granted and others have requirements which need to be secured by way of a Section 106 Agreement.

This outline application seeks to establish the principle of development on this site and the level of information provided is restricted to addressing this stage. At the reserved matters stage, these Consultees will again be able to comment on the acceptability of the detailed matters submitted.

Comments from public: As can be seen from the points listed above, there are a range of objections raised by the general public in respect of this planning application. Your Officer's response to these points is as follows:-

(1) The Transport Impact Assessment submitted as part of this proposal addresses capacity issues. After due consideration, neither the Group Manager (Transportation Planning) nor Cardiff City Council (into whose area the lanes referred to access/egress) raised objection to the proposal.

As such, no objection is maintainable in this regard.

(2) The policy issue of compliance with the Development Plan and the Council Approved Unitary Development Plan are addressed in the Committee report, where it is concluded that in respect of the relevant employment policies, the site is no longer needed for employment use. In the light of the Atkins' site study and the lack of recent demonstrable demand, there is no objection to the application in this regard.

(3) The issue of highway safety is again one that has been considered by the Group Manager (Transportation Planning) who concludes that subject to conditions and Section 106 contributions, the development is acceptable.

(4) The issue of secondary school provision is an important one, but not one which is a material consideration to this proposal. There has been no requirement for such provision requested by the Council's Education Officers.

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Application No. P/06/0037 Continued...

(5) The issue of anti-social behaviour is a societal issue but cannot justify the refusal of consent for new housing and a school building. At the reserved matters stage, the arrangement of development can be examined to ensure that security is taken into account.

(6) Any road improvements required to serve the development will be paid for by the applicant. As indicated in the report, a sum of almost £3m is also being paid by the developer for improvements to the wider strategic highway network.

(7) This is a subjective point which has not been supported by the comments of Head of Public Protection.

(8) The development stands to be considered on the information provided. The question of alternative routes over third party land is not an issue here. The Council is being asked to judge the submission before it.

(9) This is an unsubstantiated statement which ignores the development and the public benefit that will result from it. These benefits include the contamination removal, affordable houses, new housing stock for the area, a school, contribution to highway improvements, etc.

(10) This point is not a material consideration that can be incorporated in the processing of this application.

(11) The remediation scheme has previously been approved. The completion of this scheme should be undertaken without detriment to the health of the local residents. The Head of Public Protection's comments are material in this regard.

(12) The issue of the protected species (i.e. dormice) is one that is being pursued by way of a licence to the WAG and by the imposition of a planning condition attached to any consent granted.

(13) In considering this application, Dwr Cymru and Western Power Distribution have been consulted (as well as other utilities). No objection has been raised by these parties in respect of the servicing of this site.

(14) If a surgery is required to be set up to serve this area, it is for the relevant doctors, in association with the Area Health Authority, to negotiate a site with the landowner.

(15) Cray Valley was unfortunately closed as a going concern due to market forces operating in that industry. The jobs were therefore lost. It has to be acknowledged, however, that the construction of the houses and school proposed will result in medium term employment for those working on the project, many of whom it is hoped will be from the local area.

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Application No. P/06/0037 Continued

(16) The utilities companies, the highway engineers, drainage bodies, etc., have not raised issues in respect of the infrastructure arrangements. Obviously, where required, new infrastructure will be installed to facilitate the development functioning.

(17) Group Manager (Transportation Planning) is mindful of the need to improve the service in respect of both school children and the general public. This is a matter which will be pursued independently of this proposal.

In conclusion, it is your Officer's view that this scheme, on balance, is one that should be approved conditionally, subject to a Section 106 Agreement.

RECOMMENDATION that:

(A) (1) The application be deferred for the completion of an agreement under Section 106 of the Town and Country Planning Act 1990. In that agreement, the applicant will agree to the following:-

(i) To pay a sum of £2,953,335.00 as a contribution towards strategic highway improvements in the Caerphilly Basin area;

(ii) To pay a sum of £2,500,000.00 for a primary school building and to provide an agreed site on which the school will be constructed;

(iii) To provide a developable site of 1.5 acres in area (location to be agreed) and 16 units of low cost house ownership.

(2) In accordance with the Town and Country Planning (Development Plans and Consultation) Direction 1992, the proposal is required to be forwarded to the Welsh Assembly Government for their consideration. No decision should be made on this proposal by this Authority for a period of 21 days beginning with the date of notification to WAG.

(B) Upon completion of the Section 106 Agreement and the elapsing of the time period for the WAG consultation, permission shall be granted for outline permission for this development, subject to the following conditions:-

01) Approval of the details of the siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development is commenced.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

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Application No. P/06/0037 Continued

- 02) Plans and particulars of the reserved matters referred to in Condition 01) above, relating to the siting, design and external appearance of any buildings to be erected, the means of access to the site and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 03) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 04) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
- 05) Full engineering details of an improvement to the junction between the Caerphilly to Newport road, route A468 and the road serving Waterloo Village, route R586 shall be submitted to and agreed, in writing, with the Local Planning Authority prior to the commencement of any work on site. These details will include constructional details and sections, together with street lighting, drainage and traffic control proposals. Thereafter, these agreed details shall be completed prior to the occupation of any of the dwellings or the school hereby approved.
REASON: In the interests of highway safety.
- 06) Full engineering details of the proposed junctions on the road to Waterloo Village, route R586, which will provide access to the site shall be submitted to and agreed, in writing, with the Local Planning Authority prior to the commencement of any work on site. These details will include constructional details and sections together with street lighting and drainage proposals. Thereafter, these agreed details shall be completed prior to the occupation of any of the dwellings or the school hereby approved.
REASON: In the interests of highway safety.

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Application No. P/06/0037 Continued

- 07) Full engineering details of all the proposed highway layouts to serve the development shall be submitted to and agreed, in writing, with the Local Planning Authority prior to the commencement of any work on the site. These details will include constructional details and sections, together with drainage and street lighting proposals. Thereafter, these details shall be completed prior to the occupation of any of the dwellings or the school hereby approved unless as agreed otherwise with the Local Planning Authority.
REASON: In the interests of highway safety.
- 08) A Travel Plan for the development will be submitted as part of the reserved matters application. This will be designed to encourage residents to travel by alternative methods than by car and will require publicity material on the subject to be displayed in the developer's sales office and the issue of a welcome pack to each new resident comprising bus timetables, key rings, several vouchers for free bus travel, information about PTI Traveline Cymru and advice on the benefits of car sharing.
REASON: In the interests of highway safety.
- 09) If during development, contamination not previously identified is found to be present at the site, 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 amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.
REASON: To prevent pollution of controlled waters and to ensure compliance with the existing remediation strategy.
- 10) Soakaways shall only be used in areas on site where they would not present a risk to groundwater. If permitted, their location must be approved, in writing, by the Local Planning Authority.
REASON: To prevent pollution of controlled waters.
- 11) The development hereby approved shall be undertaken in accordance with the Addendum to the Flood Consequences produced by URS Corporation Ltd: 1943 Addendum Issue Number 1 dated September 2006.
REASON: To ensure that the development accords with the guidance contained in TAN 15 (Development and Flood Risk).

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Application No. P/06/0037 Continued

- 12) No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this scheme has been agreed, in writing, by the Local Planning Authority. Thereafter, this agreed scheme shall be implemented concurrently with the development of the site.
REASON: To ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the public sewerage system.
- 13) Development shall not begin until a scheme to deal with the contamination of any land outside of the remediation scheme approved under Application Nos. P/04/1891 and P/06/0629 which is included in this permission has been submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include a ground investigation, ground gas monitoring and a risk assessment to identify the extent of the contamination (particularly in relation to the Cray Valley site) and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme. Notwithstanding the information submitted already, a remediation strategy must be submitted and approved, in writing, before the development commences. The remediation strategy URS Remedial Strategy Report (including Valspar Leased Area) dated September 2006 submitted in relation to P/06/0629 can be used as a basis with the following amendments to include:
- 1) validation of soils in backfilled remediation areas where air sparging is undertaken as per SKM's letter dated 29th May 2007;
 - 2) ground gas as per SKM's letter dated 29th May 2007;
 - 3) any other remediation necessary in relation to land outside P/04/1891 and P/06/0629 which is included in this permission.
- This remediation strategy must be completed prior to any houses, the school or other ancillary development commencing.
REASON: To ensure that the site is remediated to a standard acceptable for the approved after-uses.
- 14) Prior to the development hereby approved commencing, a post remediation long-term monitoring and maintenance scheme with related reporting requirements, must be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the post remediation long-term monitoring and maintenance scheme.
REASON: To ensure that site remediation is working to a standard acceptable for the approved after-uses.

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Application No. P/06/0037 Continued

- 15) Prior to the development hereby approved commencing a scheme for dust mitigation (including particulate matter 10) must be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme for dust mitigation.
REASON: To ensure that site remediation is working to a standard acceptable for the approved after-uses.

- 16) Prior to development hereby approved commencing, a scheme of noise mitigation must be submitted to and agreed, in writing, by the Local Planning Authority. The scheme should include the extent of operational hours at the site and the noise levels during these hours. The specified noise levels shall be measured over one hour intervals and not the whole working day. The development shall be carried out in accordance with the agreed scheme for noise mitigation.
REASON: In the interests of residential amenity.

- 17) The development hereby approved shall not be occupied following the completion of the remediation works until a report, including monitoring results has been submitted to and agreed, in writing, by the Local Planning Authority which verifies that the development has been undertaken in accordance with the agreed remediation strategy and the health risk assessment as agreed in relation to P/06/0629. This must include all land covered by this permission and ground gas monitoring to characterise the site.
REASON: To ensure that the remediation of the site has been undertaken satisfactorily.

- 18) Prior to the development hereby approved commencing, a scheme for the importation to the site and testing for contamination of soils and materials must be submitted to and agreed, in writing, with the Local Planning Authority. This must include a validation report. The development shall thereafter be carried out in accordance with the approved scheme. The validation report shall include a statement to the effect that none of the material contains, or is suspected of containing, Japanese Knotweed, asbestos or any material contaminated by natural or synthetic hydrocarbons.
REASON: To ensure that all material imported to the site is free of contamination.

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Application No. P/06/0037 Continued

- 19) Prior to the development commencing, a gas risk assessment must be submitted to and agreed, in writing, with the Local Planning Authority including monitoring of methane, carbon dioxide, carbon monoxide, oxygen, VOC's, SVOC's, formaldehyde and gas flow to characterise the ground gas emissions. The location of wells, depth of screened sections and the number of monitoring rounds must also be included. The risk assessment must include the appropriate gas protection measures required in all buildings and any additional gas protection/controls required in the land. These measures must then be installed in all buildings/land hereby approved by this permission.
REASON: To ensure future development is protected from ground gas emissions.

- 20) The plans and particulars submitted in accordance with Condition 01) shall include:
(a) a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (para/ 5.2.2 of BS5837) of every retained tree or shrub on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees and shrubs to be removed shall be indicated on this plan;
(b) the details of each retained tree as required at para 4.2.6 of BS5837 in a separate schedule;
(c) a schedule of tree works for all the retained trees in paragraph (a) and (b) above specifying pruning and other remedial or preventative work whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendation for Tree Work.
REASON: In the interests of biodiversity and visual amenity of the area.

- 21) The plans and particulars submitted in accordance with Condition 01) shall include a scheme depicting hard and soft landscaping and shall be submitted to and agreed, in writing, by the Local Planning Authority, and these works shall be carried out as approved. These details shall include:
(a) Proposed finished ground levels of contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor structures including furniture, play equipment, refuse or other storage units; and
(b) Proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines, etc., indicating lines, manholes etc; and
(c) Planting plans; written specifications (including cultivation and other operations associated with tree shrub and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
REASON: In the interests of biodiversity and visual amenity of the area.

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Application No. P/06/0037 Continued

22) The plans and particulars submitted in accordance with Condition 01) shall include an Environmental Management Plan that shall be submitted to and agreed, in writing, by the Local Planning Authority, these works shall be carried out as approved. These details shall include:

(a) measures for the protection of important habitats and species within and on the perimeter of the site during the construction period

(b) measures for the short and long term management of the soft landscaping and retained habitats;

(c) a monitoring scheme to measure the success of the management of retained and new habitats on site;

(d) details of the means by which the management and monitoring will be achieved.

REASON: In the interests of biodiversity and visual amenity of the area.

23) The plan hereby approved is that submitted on 21st February 2007.

REASON: For the avoidance of doubt as to the plan hereby approved.

24) As part of the details required in Condition 01) above, a "Masterplan" of the site shall be submitted. This shall incorporate the following:-

(a) The layout, design, appearance, etc., of the development shall incorporate the requirements of the Council's Adopted Supplementary Planning Guidance entitled Building Better Places to Live (October 2005);

(b) The Masterplan shall pay regard to the conclusions contained in the "Landscape and Visual Impact Assessment" section of the Environmental Statement submitted with the application, particularly the elements identified in Fig. 7.2 of that section (i.e. the Linear Park, the riverside walk, recreational wildlife link, wildlife conservation area, etc);

(c) The layout shall ensure that the appropriate level of children's play facilities shall be incorporated into it. This provision shall pay due regard to the requirement of Policy L9 of the Council Approved Unitary Development Plan;

(d) The principles of vehicular, pedestrian and cyclist access to the development;

(e) The phases of the development and the sequence for approval of the Local Planning Authority.

Thereafter, the development shall be carried out in accordance with the approved Masterplan unless the Local Planning Authority agrees to any variation in writing.

REASON: To ensure proper planning of the area.

Advisory Note(s)

The applicant be advised of the comments of Dwr Cymru, Environment Agency (Wales), Wales and West Utilities, Western Power Distribution, Gwent Police, Group Manager (Transportation Planning), Senior Engineer (Land Drainage) and Head of Public Protection.

**DEFERRED FOR SECTION 106 AGREEMENT AND REFERRAL TO W.A.G.
CONDITIONS AND REASONS NOW TO READ:-**

- 01) Approval of the details of the siting, design and external appearance of the building(s), and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before development is commenced.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.**
- 02) Plans and particulars of the reserved matters referred to in Condition 01) above, relating to the siting, design and external appearance of any buildings to be erected and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.**
- 03) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.**
- 04) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.**
- 05) Full engineering details of an improvement to the junction between the Caerphilly to Newport road, route A468 and the road serving Waterloo Village, route R586 shall be submitted to and agreed, in writing, with the Local Planning Authority prior to the commencement of any work on site. These details will include constructional details and sections, together with street lighting, drainage and traffic control proposals. Thereafter, these agreed details shall be completed prior to the occupation of any of the dwellings or the school hereby approved.
REASON: In the interests of highway safety.**
- 06) Full engineering details of the proposed junctions on the road to Waterloo Village, route R586, which will provide access to the site shall be submitted to and agreed, in writing, with the Local Planning Authority prior to the commencement of any work on site. These details will include constructional details and sections together with street lighting and drainage proposals. Thereafter, these agreed details shall be completed prior to the occupation of any of the dwellings or the school hereby approved.
REASON: In the interests of highway safety.**
- 07) Notwithstanding the submitted information and in particular that shown on Figures 9 & 10 within Section 4 "Design Statement" of the submission, full engineering details of all the proposed highway layouts to serve the development shall be submitted to and agreed, in writing, with the Local Planning Authority prior to the commencement of any work on the site. These details will include constructional details and sections, together with**

drainage and street lighting proposals. Thereafter, these details shall be completed prior to the occupation of any of the dwellings or the school hereby approved unless as agreed otherwise with the Local Planning Authority.

REASON: In the interests of highway safety.

- 08) A Travel Plan for the development will be submitted as part of the reserved matters application. This will be designed to encourage residents to travel by alternative methods than by car and will require publicity material on the subject to be displayed in the developer's sales office and the issue of a welcome pack to each new resident comprising bus timetables, key rings, several vouchers for free bus travel, information about PTI Traveline Cymru and advice on the benefits of car sharing.**

REASON: In the interests of highway safety.

- 09) 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, a Method Statement (which may be complementary to or stand alone from any pre-existing Method Statements under permissions P/04/1891 and P/06/0629 for works on the site). This Method Statement must detail how this unsuspected contamination shall be dealt with. The development shall then proceed in accordance with the approved Method Statement.**

REASON: To prevent unacceptable risk of pollution of controlled waters.

- 10) Upon completion of the remediation detailed in the approved Method Statement, 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 Method Statement(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 protect the environment by ensuring that the remediated site has been reclaimed to an appropriate standard.

- 11) Soakaways shall only be used in areas on site where they would not present a risk to groundwater. If permitted, their location must be approved, in writing, by the Local Planning Authority.**

REASON: To prevent pollution of controlled waters.

- 12) The development hereby approved shall be undertaken in accordance with the Addendum to the Flood Consequences produced by URS Corporation Ltd: 1943 Addendum Issue Number 1 dated September 2006.**

REASON: To ensure that the development accords with the guidance contained in TAN 15 (Development and Flood Risk).

- 13) No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this scheme has been agreed, in writing, by the Local Planning Authority. Thereafter, this agreed scheme shall be implemented concurrently with the development of the site.**

- REASON: To ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the public sewerage system.**
- 14) **Development shall not begin until a scheme to deal with the contamination of any land outside of the remediation scheme approved under Application Nos. P/04/1891 and P/06/0629 which is included in this permission has been submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include a ground investigation, ground gas monitoring and a risk assessment to identify the extent of the contamination (particularly in relation to the Cray Valley site) and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.**
- REASON: To ensure that the site is remediated to a standard acceptable for the approved after-uses and for the protection of controlled waters.**
- 15) **Notwithstanding the information submitted already, a remediation strategy must be submitted and approved, in writing, by the Local Planning Authority before the development commences. The remediation must be carried out in accordance with the approved strategy.**

The remediation strategy, URS Remedial Strategy Report (including Valspar leased area) dated September 2006, submitted in relation to P/06/0629 can be used as a basis with the following amendments to include:

- 1) Validation of soils in backfilled remediation areas where air sparging is undertaken as per SKM's letter dated 29th May, 2007.
- 2) Ground gas as per SKM's letter dated 29th May, 2007.
- 3) Any other remediation necessary in relation to land outside P/04/1891 and P/06/0629 which is included in this permission.

The remediation strategy must be completed prior to any houses, the school or other ancillary development commences, unless otherwise agreed by the Local Planning Authority.

- REASON: To ensure that the site is remediated to a standard acceptable for the approved after-uses and for the protection of controlled waters.**
- 16) **Unless otherwise agreed in writing by the Local Planning Authority, prior to the development hereby approved commencing, a post remediation long term monitoring and maintenance scheme with related reporting requirements, including groundwater monitoring, must be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the post remediation long term monitoring and maintenance scheme.**
- REASON: To ensure that site remediation is working to a standard acceptable for the approved after uses and protection of controlled waters.**
- 17) **Prior to the development hereby approved commencing a scheme for dust mitigation (including particulate matter 10) must be submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme for dust mitigation.**
- REASON: To ensure that the site remediation is working to a standard acceptable for the approved after-uses.**

- 18) **Prior to development hereby approved commencing, a scheme of noise mitigation must be submitted to and agreed, in writing, by the Local Planning Authority. The scheme should include the extent of operational hours at the site and the noise levels during these hours. The specified noise levels shall be measured over one hour intervals and not the whole working day. The development shall be carried out in accordance with the agreed scheme for noise mitigation.**
REASON: In the interests of residential amenity.
- 19) **Unless otherwise agreed in writing by the Local Planning Authority the development hereby approved shall not be occupied following the completion of the remediation works until a report, including monitoring results has been submitted to and agreed, in writing, by the Local Planning Authority which verifies that the development has been undertaken in accordance with the agreed remediation strategy and the health risk assessment as agreed in relation to P/06/0629. This must include all land covered by this permission and ground gas monitoring to characterise the site.**
REASON: To ensure that the remediation of the site has been undertaken satisfactorily.
- 20) **Prior to the development hereby approved commencing, a scheme for the importation to the site and testing for contamination of soils and materials must be submitted to and agreed, in writing, with the Local Planning Authority. This must include a validation report. The development shall thereafter be carried out in accordance with the approved scheme. The validation report shall include a statement to the effect that none of the material contains, or is suspected of containing, Japanese Knotweed, asbestos or any materials contaminated by natural or synthetic hydrocarbons.**
REASON: To ensure that all material imported to the site is free of contamination.
- 21) **Unless otherwise agreed in writing by the Local Planning Authority prior to the development commencing, a gas risk assessment must be submitted to and agreed, in writing, with the Local Planning Authority including monitoring of methane, carbon dioxide, carbon monoxide, oxygen, VOC's SVOC's, formaldehyde and gas flow to characterise the ground gas emissions. The location of wells, depth of screened sections and the number of monitoring rounds must also be included. The risk assessment must include the appropriate gas protection measures required in all buildings and any additional gas protection/controls required in the land. These measures must then be installed in all buildings/land hereby approved by this permission.**
REASON: To ensure future development is protected from ground gas emissions.
- 22) **The plans and particulars submitted in accordance with Condition 01) shall include:**
(a) a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (para. 5.2.2 of BS5837) of every retained tree or shrub on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees and shrubs to be removed shall be indicated on this plan;

- (b) the details of each retained tree as required at para. 4.2.6 of BS5837 in a separate schedule;
- (c) a schedule of tree works for all the retained trees in paragraph (a) and (b) above specifying pruning and other remedial or preventative work whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989
Recommendation for Tree Work.
REASON: In the interests of biodiversity and visual amenity of the area.
- 23) The plans and particulars submitted in accordance with Condition 01) shall include a scheme depicting hard and soft landscaping and shall be submitted to and agreed in writing, by the Local Planning Authority, and these works shall be carried out as approved. These details shall include:
- (a) Proposed finished ground levels of contours; means of enclosure; car parking layout; other vehicle and pedestrian access and circulation areas; hard surfacing materials, minor structures including furniture, play equipment, refuse or other storage units; and
- (b) Proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines, etc., indicating lines, manholes etc; and
- (c) Planting plans; written specifications (including cultivation and other operations associated with tree shrub and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
REASON: In the interests of biodiversity and visual amenity of the area.
- 24) The plans and particulars submitted in accordance with Condition 01) shall include an Environmental Management Plan that shall be submitted to and agreed in writing by the Local Planning Authority, these works shall be carried out as approved. These details shall include:
- (a) measures for the protection of important habitats and species within and on the perimeters of the site during the construction period;
- (b) measures for the short and long term management of the soft landscaping and retained habitats;
- (c) a monitoring scheme to measure the success of the management of retained and new habitats on site;
- (d) details of the means by which the management and monitoring will be achieved.
REASON: In the interests of biodiversity and visual amenity of the area.
- 25) The plan hereby approved is that submitted on 12th June 2007.
REASON: For the avoidance of doubt as to the plan hereby approved.
- 26) As part of the details required in Condition 01) above, a "Masterplan" of the site shall be submitted. This shall incorporate the following:-
- (a) The layout, design, appearance, etc., of the development shall incorporate the requirements of the Council's Adopted Supplementary Planning Guidance entitled Building Better Places to Live (October 2005);
- (b) The Masterplan shall pay regard to the conclusions contained in the "Landscape and Visual Impact Assessment" section of the Environmental

Statement submitted with the application, particularly the elements identified in fig. 7.2 of that section (i.e. the Linear Park, the riverside walk, recreational wildlife link, wildlife conservation area, etc);

(c) The layout shall ensure that the appropriate level of children's play facilities shall be incorporated into it. This provision shall pay due regard to the requirement of Policy L9 of the Council Approved Unitary Development Plan;

(d) The principles of vehicular, pedestrian and cyclist access to the development;

(e) The phases of the development and the sequence for approval of the Local Planning Authority.

Thereafter, the development shall be carried out in accordance with the approved Masterplan unless the Local Planning Authority agrees to any variation in writing.

REASON: To ensure proper planning of the area.

PREFACE ITEM

APPLICATION NO. P/06/0037

APPLICANT(S) NAME: Cray Valley Ltd

PROPOSAL: Redevelop site incorporating 545 residential units and 2.5 acres for a primary school

LOCATION: Waterloo Works Machen

This application is a long standing proposal which was originally reported to the Planning Committee on the 20 June 2007 (a copy of that report is attached as an appendix to this preface item).

At that time Committee resolved to grant a conditional consent for the development subject to the completion of a Section 106 Agreement.

This Agreement was based on:

- i. The payment of a highway contribution of £2,953,335.00.
- ii. A sum of £2,599,000 for a primary school building along with a site of 2.5 acres on which the school would be built; and
- iii. To provide a developable site of 1.5 acres and the units of low cost ownership.

Whilst the last draft of the Section 106 Agreement was prepared in the summer of 2009 it has not yet been signed and as such the planning permission has not been issued.

The land owners Total Limited have indicated that they intend to clear the site of all contamination prior to pursuing its development for housing. In this regard they are seeking to finalise a remediation scheme with the Authority and our external consultants designed to clear the land to a standard that can accommodate residential development and the school. This aim has nonetheless delayed the completion of the agreement. It is also acknowledged that the local housing market is not currently at its most prosperous.

In view of the length of time that has elapsed discussions have taken place with the owner's agent to attempt to bring the matter to a conclusion. In recognition of the changed market circumstances Officers have suggested that whilst the amounts of money and land required should remain unchanged it may be possible to look at the way the contributions are phased.

In this regard the most onerous part of the Section 106 Agreement is the educational contribution. At present this requires the total sum to be paid at the time the licence to build the school is granted.

The owner's agent suggested an option whereby his client would be prepared to pay the financial contribution in four equal tranches linked to the occupation of the 100th/200th/300th and 400th dwelling. This would be phased along similar lines to the Highways contribution contained in the Section 106 Agreement. It is not however considered practical to delay the funding of the school on potentially such a protracted basis.

It is considered that a more acceptable option would be the payment of the money on the commencement of the construction of the 100th house rather than on the granting of the licence. This would allow the receipt of a substantial amount of capital which would assist the contribution process.

This is an apposite time to conclude this outstanding matter as it would secure a planning consent on a residential site identified in the Adopted Caerphilly County Borough Council Local Level Development Plan. This will assist in improving the Authority's Five Year Land Supply Figures, which are currently below target.

It is also at a point in time when the Section 106 Agreement mechanism for securing the provision of infrastructure and services which seek to mitigate the effect of development, and which cannot be required directly through the planning process, is being superseded, in large part by the Community Infrastructure Levy (CIL) which, subject to Council approval will be adopted on the 1 July 2014.

If the Section 106 Agreement for this site is not completed by that time the application will need to be re-assessed in the light of CIL and would require a further report to Committee in this regard.

In order to attempt to bring this longstanding matter to a satisfactory conclusion it is recommended that the amendment to the phasing of the education contribution be accepted

RECOMMENDATION:

That the Section 106 Agreement be amended to reflect the payment of the education contribution upon the commencement of the construction of the 100th dwelling on the site rather than the granting of the licence to build the school.

AMEND SECTION 106

PREFACE ITEM

APPLICATION NO. P/06/0037

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PROPOSAL: Redevelop site incorporating 545 residential units and 2.5 acres for a primary school

LOCATION: Waterloo Works Machen

This application is a long standing proposal which was originally reported to the Planning Committee on the 20 June 2007 (a copy of that report is attached as an appendix to this preface item).

At that time Committee resolved to grant a conditional consent for the development subject to the completion of a Section 106 Agreement.

This Agreement was based on:

- i. The payment of a highway contribution of £2,953,335.00.
- ii. A sum of £2,599,000 for a primary school building along with a site of 2.5 acres on which the school would be built; and
- iii. To provide a developable site of 1.5 acres and 16 units of low cost ownership.

Whilst the last draft of the Section 106 Agreement was prepared in the summer of 2009 it has not yet been signed and as such the planning permission has not been issued. The land owners, Total Limited, have indicated that they intend to clear the site of all contamination prior to pursuing its development for housing. In this regard they are seeking to finalise with the Council and our external consultants a remediation scheme designed to clear the land to a standard that can accommodate residential development and the school. This aim has delayed the completion of the agreement.

In view of the length of time that has elapsed discussions have taken place with the owner's agent to attempt to bring the matter to a conclusion. In recognition of the changed market circumstances Planning Committee agreed in April 2014 that the payment for the school be made on the commencement of the construction of the 100th house at the site other than what the licence for the construction of the school was issued.

Cont....

Application P/06/0037 Continued

Since then the Council introduced the Community Infrastructure Levy (CIL) in July 2014, following which the developers could not be required to provide the highway contribution or the education financial contribution. Both matters were included in the Council's list of infrastructure projects that are to be funded through CIL. On that basis the developers approached the local planning authority to seek the removal of those items from the section 106 agreement. However, the delivery of a school at this site is considered to be an important part of its redevelopment, and policy CF1.34 of the adopted local development plan (LDP) reflects that. To that end the CIL was revised in November 2015 to refer to the funding of off-site education, whereas the school at this development will be on site, and could therefore be secured through a section 106 obligation.

The obligation as originally drafted included the provision of 1.5 acres (0.6ha) for the development of affordable housing. It is still the intention of the applicants to include that provision. Policy CW11 of the LDP states that the target for the provision of affordable housing in this area is 40% of the total number of dwellings. The proposed provision would be significantly less than that, but the applicants have justified that level on the grounds of viability. A considerable amount, some £19 million, has been spent on the remediation of the site, and the provision of affordable housing as well as the dedication of land and a financial contribution to a school would make the development of the site unviable. Information has been submitted to support the applicant's case, which is satisfactory.

A Section 106 agreement must now satisfy the following tests:

- (a) It is necessary to make the development acceptable in planning terms.
- (b) It is directly related to the development.
- (c) It is fairly and reasonably related in scale and kind to the development.

On the basis of the LDP, the securing of affordable housing and the contribution towards the school are necessary. Affordable housing and a school are directly related to the residential development of the site. The scale is fairly and reasonably related to the development which would be 545 units.

RECOMMENDATION: That the Section 106 Agreement associated with planning approval P/06/0037 be progressed on the basis of the advice in the above report i.e. a contribution of £2,599,000 and the provision of 2.5 acres of land towards the erection of a school, the financial payment to be made on the commencement of the construction of the 100th house at the site; and the provision of 1.5 acres of land for affordable housing.

DEFERRED FOR COMPLETION OF S106

