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Report

Inquiry held on 17-20, 24-27 and 31/01/06, 01-
03/02/06 and 13, 15 and 16/06/06
Site visit made on 09/02/06

gan/by Alwyn B Nixon BSc(Hons) MRTPI

**Arolygydd penodwyd gan Cynulliad
Cenedlaethol Cymru**

**an Inspector appointed by the National
Assembly for Wales**

Dyddiad/Date 18/09/06

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 77

APPLICATIONS BY MERTHYR VILLAGE LIMITED TO MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

1. (PHASE 1) FULL APPLICATION (REF 020060) - RECLAMATION AND LANDSCAPE RESTORATION OF 83 HECTARES OUT OF 224 HECTARES OF DERELICT AND DESPOILED LAND INCLUDING TIP REPROFILING AND COAL RECOVERY FROM SELECTED SPOIL TIPS
2. (PHASE 2) OUTLINE APPLICATION (REF 020260) - COMPREHENSIVE DEVELOPMENT SCHEME TO PROVIDE RETAIL, LEISURE, OFFICES, HOTEL, FOOTBALL STADIUM, COUNTRY PARK AND RESIDENTIAL USES WITH ASSOCIATED ACCESS, SERVICING, PARKING AND LANDSCAPING

LAND AT RHYDYCAR, MERTHYR TYDFIL, BOUNDED BY THE A470 TO THE EAST AND HEOLGERRIG TO THE NORTH

File Ref: APP/U6925/X/03/514357

Site address: Land at Rhydyicar, south-west of Merthyr Tydfil, bounded by the A470 to the east and Heolgerrig to the north.

- The applications were called in for decision by the National Assembly for Wales by a direction, made under section 77 of the Town and Country Planning Act 1990, on 7 March 2003.
- The applications were made by Merthyr Village Ltd to Merthyr Tydfil County Borough Council.
- Application Ref 020060 was submitted on 26 February 2002.
- The development proposed is “reclamation and landscape restoration of 83 ha out of 224 ha of derelict and despoiled land, including tip re-profiling and coal washing from selected spoil tips”.
- Application Ref 020260 is dated 3 July 2002.
- The development proposed is “comprehensive development scheme to provide retail, leisure, offices, hotel, football stadium, country park and residential uses with associated access, servicing, parking and landscaping (see attached schedule)”.
- The reason given for making the direction was “that the proposed development raises planning issues of more than local importance particularly as they may involve conflict with national planning policies, could have undue effects beyond the immediate locality, and are likely to significantly affect sites of scientific, nature conservation or historic interest, or areas of landscape importance”.
- On the information available at the time of making the direction, the following were the matters which the National Assembly for Wales stated to be particularly relevant to the consideration of both applications:
 - (i) The visual and environmental implications of the proposed development on the site and surrounding areas, sites of scientific, nature conservation or historic interest, or areas of landscape importance.
 - (ii) The relevant national policies as set out in Planning Policy Wales and advice contained in Welsh Office Circular 60/96 – Planning and the Historic Environment: Archaeology.
 - (iii) Policies in the Mid Glamorgan (Merthyr Tydfil County Borough) Replacement Structure Plan 1991-2006 and the Merthyr Tydfil Borough Local Plan.

Summary of Recommendation: That planning permission be refused in respect of both applications.

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1. PREAMBLE AND PROCEDURAL MATTERS

- 1.1 This report concerns an inquiry into two interrelated proposals held under the provisions of the Town & Country Planning (Inquiries Procedure) Rules 1992. The first proposal is to carry out selective tip re-profiling and coal recovery operations within the site. The second is for a subsequent comprehensive mixed use development scheme for the site. A pre-inquiry meeting was held on 12 October 2005. The inquiry was held for a total of 15 days, between 17 January and 3 February 2006 and 13 to 16 June 2006. I carried out an accompanied inspection of the site on 9 February 2006. In addition, I inspected associated locations and viewed the site from various vantage points on an unaccompanied basis on 8 February 2006, 14 June 2006 and on other occasions during the course of the inquiry.
- 1.2 The applications were called-in for determination by the Assembly by a direction made under section 77 of the Town and Country Planning Act 1990. The details of the direction, the reasons for it and the matters identified by the Assembly as being of particular relevance to the consideration of the applications are set out at the head of this report. In addition, the applicant and other parties were advised at the pre-inquiry meeting that evidence should also be provided concerning retail issues and town centres, and sustainable development considerations, travel patterns and transport.
- 1.3 The phase 1 application 020060 is an application for full planning permission. At the outset of the inquiry I sought confirmation of the plans forming part of the application and required by the Application Regulations. The applicant has provided a written response on this matter [Doc MV 10], from which it is evident that no application drawing was submitted to the Council with the application. The applicant and the Council were evidently content to rely on the information and indicative drawings contained in the Environmental Statement (ES) which accompanied the application. The officer recommendation on the phase 1 application and the Council's decision that it was minded to grant permission were arrived at on this basis.
- 1.4 In the light of the circumstances, and since the application has not yet been determined, the applicant has, in consultation with the Council, now identified plan ref. (J042/G/001/R) Rev C as the plan to be considered as part of the phase 1 application. This is the amended schematic illustration of earthwork activities provided in the revised ES information [Doc CD6.3 Fig Nos. 26 (Revision C)], on which the evidence at the inquiry relating to the phase 1 proposals has been based. Although it is diagrammatic in form I consider that it is sufficient to describe the development which is the subject of the phase 1 application for the purposes of the Application Regulations, in that it identifies with reasonable precision the areas of the site where the existing ground levels would be altered. It is unusual in my experience, and less than ideal, for a full application for development of this nature to be determined on the basis of such limited drawings. The level of information provided inevitably necessitates a degree of conjecture as to finished land levels and detailed landform when evaluating the phase 1 proposal and its impacts. Nonetheless, I have assessed the phase 1 proposal on this basis, although I consider that it would be necessary, if permission were granted, to impose a condition requiring the submission for prior approval of more detailed, contoured plans and sections at an appropriate scale before any development commences.
- 1.5 A further matter explored during the inquiry concerned the "indicative masterplan" status of drawing 013045-10-21 P2 (titled "Proposed Siteplan") [Doc CD6.2] forming part of the phase 2 application P/020260 in relation to the provisions of the Environmental Regulations.

The issue here is the degree of flexibility that can legitimately be ascribed to the phase 2 proposals at this outline stage, given that the phase 2 development is development requiring an ES and, further, that the decision maker must take into account all of the environmental information presented, including the ES. Consequently, the wide flexibility usually inherent in outline applications does not apply in cases involving development requiring an ES.

- 1.6 In line with the principles established by *R v Rochdale MBC ex parte Tew, Milne & Garner* it follows that something significantly different from that which was considered through the ES or inquiry process cannot form the subject of the outline permission. However, the *Rochdale* judgement also allows for the adoption of a masterplan approach in relation to large schemes involving an ES, provided the development permitted is consistent with the masterplan details on which the ES is based. This could be achieved in the present case by a condition restricting the form of development permitted to the pattern of uses shown on the indicative masterplan. In the light of this, my approach to the status and interpretation of drawing 013045-10-21 P2 has been to interpret this drawing as depicting the proposed overall disposition of uses within the site and the broad layout of the principal highway network serving these different areas of uses. However, the detailed design and layout of the individual housing areas and other uses shown on the indicative drawing would be subject to detailed submission and consideration at reserved matters stage, within the broad framework for the site established by drawing 013045-10-21 P2. If permission were granted, substantive consistency of the subsequent detailed development proposals with the indicative masterplan drawing would need to be secured by means of an appropriately worded condition.
- 1.7 At the start of the inquiry I also requested clarification concerning the “possible secondary access to proposed dual carriageway (subject to highways agreement)” indicated on drawing 013045-10-21 P2. I was informed that the intention is that a secondary road access to the site is proposed from the existing highway network at Upper Abercanaid. In the early years of the development this would serve solely as an emergency alternative access. However, in order to address predictions of overloading of the redesigned A470 Rhydycar roundabout by 2017 if the proposed development relies on this single means of vehicular access, it is proposed to utilise the route from Upper Abercanaid as a secondary access in the later stages of implementation of the phase 2 permission, if granted.
- 1.8 Because this secondary access would be a necessary facet of the future form of development should the phase 2 proposal be implemented in its entirety, I required that further information be provided on the significant environmental effects (if any) of this aspect of the development proposal [Doc 8]. This information was provided during the course of the inquiry [Doc ES A13]. However, since part of the proposed route of the secondary access to the existing highway network at Upper Abercanaid lies outside the present application site, this emergency/secondary access would require further planning permission in order to be provided. This matter is addressed within the terms of the section 106 undertaking submitted on behalf of the applicant [Doc 9].
- 1.9 Finally, it is necessary to draw attention to the submissions made on behalf of the applicant [para 7.41 – 7.43] in relation to the role of Cadw as an objector at the inquiry whilst being part of the Welsh Assembly Government, which is ultimately the decision maker in this case. Although Cadw provided a letter setting out its standing at the inquiry [Doc CADW19] in response to questions from those acting for the applicant, the closing submissions for the applicant registered concern as to the procedural fairness of the decision making process in the terms recorded. Whilst this is not a matter which concerns the planning merits of the proposals, and thus does not impinge upon my recommendations on the applications, I

nonetheless draw this point concerning procedural fairness to the National Assembly's attention.

1.10A number of acronyms are used throughout this report. For clarity these are set out here, in alphabetical order:

ASIDOHL	Assessment of Significant Impacts of Development On the Historic Landscape
BAP	Biodiversity Action Plan
CBC	County Borough Council
CCW	Countryside Council for Wales
EIA	Environmental Impact Assessment
ES	Environmental Statement
GGAT	Glamorgan Gwent Archaeological Trust
HLCA	Historic Landscape Character Area
LBAP	Local Biodiversity Action Plan
MIG	Merthyr Initiative Group
MIPPS	Ministerial Interim Planning Policy Statement
MVL	Merthyr Village Limited
NAW	National Assembly for Wales
NCB	National Coal Board
PPW	Planning Policy Wales
RCAHMW	Royal Commission on Ancient and Historical Monuments in Wales
SAM	Scheduled Ancient Monument
SINC	Site of Importance for Nature Conservation
SSSI	Site of Special Scientific Interest
SUDS	Sustainable Drainage System
TAN	Technical Advice Note
UDP	Unitary Development Plan
WDA	Welsh Development Agency
WSP	Wales Spatial Plan

2. THE APPLICATIONS

- 2.1 A statement of common ground setting out factual information concerning the proposals has been jointly prepared by Merthyr Village Limited (“MVL”), the Council, Countryside Council for Wales (“CCW”) and Cadw. [Doc CD4.1]. Section 4 of that document provides details of the applications and their consideration by the Council.
- 2.2 Despite being submitted as two separate applications following pre-application discussions with the Council, the applications are complementary elements of a proposed phased development of the site. The identified application site of about 224 ha is common to both applications.
- 2.3 The first application, Ref. 020060 [Doc 5], is an application for full planning permission for “reclamation and landscape restoration of 83 ha out of 224 ha of derelict and despoiled land, including tip re-profiling and coal washing from selected spoil tips”. It is commonly referred to as the Phase 1 proposal. When submitted in February 2002 it was accompanied by an Environmental Statement (ES). Apart from the application site plan, the submitted application contained no application drawings, but relied on the proposal information contained in the accompanying ES. As indicated above, MVL and the Council consider that the application should be determined on the basis of Fig No 26 (Revision C) of the Phase 1 ES (as amended), and I have examined the proposal on this basis. Whilst MVL acknowledges that this drawing is schematic, it confirms that it nonetheless represents the development proposed as Phase 1. Any further details required to define and regulate the Phase 1 development would need to be secured by planning conditions.
- 2.4 The Phase 1 proposal essentially comprises the reprofiling of substantial parts of the application site, primarily within its lower eastern and southern parts and in a further area in the north-west, by the re-grading and spreading of various spoil tip areas. As part of the spoil moving operations a coal recovery operation would also be undertaken. This element of the scheme is incidental to the primary purpose of the Phase 1 proposal, which is to create a suitable landform for development proposed in Phase 2.
- 2.5 The second application, Ref 020260 [Doc 6] was submitted to the Council in July 2002. The development description is “comprehensive development scheme to provide retail, leisure, offices, hotel, football stadium, country park and residential uses with associated access, servicing, parking and landscaping (see attached schedule)”. It is an outline application with details of the external appearance, siting and design of buildings and landscaping reserved for later consideration. Means of access, however, is for detailed consideration at this time. When initially submitted the application included a master plan drawing, now superseded by the latest indicative site plan drawing 013045-10-21 P2, and indicative site sections. A schedule attached to the planning application form (as referred to in the development description) identifies the development elements within the application site, although these have subsequently been amended in response to various issues arising post-submission. The principal elements now proposed may be summarised as follows:
- Retail and leisure development (32,400m² non-food retail, 9,300 m² leisure uses)
 - Stadium site (10,000 seater stadium with associated practice ground + 70 bed hotel + 1,850 m² A3 + 6,500 m² business units)
 - 100 Bed Hotel and Golf Driving Range
 - Phased Residential Development (around 1750 units) to include 1,000+ 3 and 4 bedroom houses and 750+ 1 and 2 bed flats and 2 and 3 bedroom terraced and detached housing
 - Site for school/community facility
 - Area for low-key recreational amenity use

The application was again accompanied by an ES.

- 2.6 The Phase 1 planning application (020060) was considered by a Special Council Meeting on 19 December 2002. The officer report recommended that planning permission be refused [Doc CD5.1]. However, the Council rejected the recommendation and resolved to support the proposal [Doc CD5.2]. In January 2003 the Council's Planning Committee approved a series of planning conditions to be attached to any permission granted [Docs CD5.3 & CD5.4], and in accordance with the 1992 Town and Country (Development Plans) (Wales) Directions the application was referred to the Welsh Assembly Government. This led to the National Assembly's call-in of both the Phase 1 and Phase 2 applications in March 2003.
- 2.7 Subsequent examination by the National Assembly of the adequacy of the ESs submitted with the applications led to a requirement for further assessment of various aspects of the proposals, arising amongst other things from the designation of the Cwm Glo Site of Special Scientific Interest on part of the site. New Phase 1 and Phase 2 ESs were submitted in July 2004 [Docs ES Vols 1-13], followed by various additional surveys and analyses [Docs ES A1-A12].
- 2.8 In addition, at the inquiry I issued a requirement for further information on the significant environmental impacts, if any, of the secondary site access identified on plan 013045-10-21 P2, pursuant to Regulation 19(1) of the Town and Country Planning (Environmental Impact) Regulations 1999 for the purposes of the inquiry. This additional information was produced as an addendum to the Phase 2 ES in January 2006 [Doc ES A13], and formed part of the evidence before the inquiry. I have taken the environmental information in the ESs, as supplemented by the later material, into account in arriving at my conclusions and recommendations.
- 2.9 Following the National Assembly's decision to call in the two applications the Council has formally determined its position in relation to the Phase 2 proposal. The officer report on the Phase 2 application recommended that the proposal should not be supported [Docs CD6.6 & CD6.8]. However, at a Special Full Council Meeting on 26 September 2005 the Council decided that it was in favour of the proposal, subject to the latest transport assessment addendum satisfying the relevant authority at the public inquiry; subject to appropriate conditions to exclude leisure uses likely to have a prejudicial impact on the proposed leisure scheme at Rhydycar and to exclude the proposed food retail element of the application; and subject further to any section 106 agreement as may be appropriate [Doc CD6.10]. The Council has subsequently had detailed discussions with the applicant over the terms of the section 106 agreement, which has now been completed [Doc 9].

3. THE SITE AND SURROUNDINGS

- 3.1 The various aspects of the relevant characteristics of the site and its surroundings are described in detail in the ESs and the evidence submitted by the different parties to the inquiry proceedings. A summary is provided here of the principal features of the site and its relationship to the wider locality, together with the various planning and environmental designations which apply to the site or particular parts of it.
- 3.2 The site is common to both applications; a broad overview and general impression is provided by Appendices 1 (map) and 2 (aerial photograph) of the ES information with the Phase 1 application [see attachments to Doc CD5.1]. It comprises about 224ha (given as 227ha in the statement of common ground) of open land on the western side of the Taff valley, with slopes generally rising from east to west and elevation varying between about 170m above ordnance datum at its south-eastern end and about 370m above ordnance datum at its north-western extremity. Much of the northerly part of the site is drained by the Nant Rhyd-y-Car and its tributaries, Nant Cwm Glo and Nant Llwyn-yr-Eos. The northernmost area, however, is drained by another watercourse, Nant Cwm Pant Bach; the southern end of the site drains to Nant Canaid. All of these streams flow eastwards to the River Taff.
- 3.3 The site lies on the south-western periphery of the built up limits of Merthyr Tydfil. It contains a mixture of wooded and open areas, forming part of the hillside slopes surrounding the built-up environs of Merthyr Tydfil. It lies outside the development boundary defined in the Merthyr Tydfil Local Plan, except for a small area (0.9ha) next to existing housing at Heolgerrig allocated as housing site H13 and a 21ha area on the south-eastern edge of the site which is allocated as a special regional employment site (E13) under local plan policy EB2.
- 3.4 The eastern site boundary runs close alongside the A470 dual carriageway, on the other side to the areas of Rhydycar and Ynysfach. The principal access to the development would be from the A470 Rhydycar roundabout, which is about 550m from the southern edge of the town centre as defined in the Local Plan. A secondary road access is proposed from Abercanaid, which would be brought into operation following the early phases of development. North of Ynysfach, again on the other side of the A470 from the site, is the recently-completed Cyfarthfa retail park. Adjoining the north-east corner of the site stands Upper Colliers Row, a Grade II listed terrace of miners' housing. The northern site boundary runs for the most part close to the southern edge of Heolgerrig, a former mining settlement extending up the slopes of Mynydd Aberdâr from the A470. The western and southern site boundaries follow an irregular course across the undeveloped hillside, essentially following the lower edge of coniferous forestry plantations and then following the wooded course of the Nant Canaid down to the A470 at the south-eastern end of the site.
- 3.5 The site has been subject to a long history of iron ore and coal working, primarily over a period spanning the 18th, 19th and first half of the 20th centuries. It formed part of the Cyfarthfa mineral lease area and is part of the extractive landscape associated with the Cyfarthfa Ironworks from its inauguration in 1765 to its closure in 1919. Deep coal mining on the site continued at Cwmdu Colliery, on the upper, western part of the site, until around 1960. The whole of the site forms part of the Merthyr Tydfil Landscape of Outstanding Historical Importance included in Part 2.1 of the Register of Historic Parks, Gardens and Landscapes of Wales [Doc CD2.7]. The full area included within the Register comprises the industrial town and the associated extractive landscape around it.
- 3.6 Numerous remains of the industrial activities are still present. The most extensive of these are the various areas of spoil discard, but in addition there are the remains of former mine

buildings, shafts and levels, water capture and supply features and water transportation, tramroad and railway systems in use at different periods. Two of these features (Cyfarthfa Canal Level and Cwmdu Airshaft and Fan) are scheduled ancient monuments. Work by the Glamorgan Gwent Archaeological Trust (GGAT) has identified 483 archaeological sites within the site boundary, including 4 sections of linear features, variously categorised as of national, regional, local, low or unknown importance. The phase 1 ES indicates that 148 of these sites and 3 linear features, including 12 sites categorised as of national importance and 6 of regional importance, lie within or cross the areas of the proposed phase 1 earthworks. The phase 2 ES states that there are 401 archaeological sites within the revised development footprint for the proposed phase 2 development. However, these figures pre-date the most recent changes to the proposals in the area of the Cwmdu spoil heaps.

- 3.7 In addition to areas of coal and iron ore spoil discard, there is an area of more recent tipped material in the south eastern part of the site, arising from the construction of the present line of the A470 trunk road along the eastern site boundary. This area broadly corresponds to the special regional employment site E13 allocation in the Local Plan.
- 3.8 Large parts of the areas of tips, primarily along the eastern, lower lying section of the site and in the area of the former Cwm Colliery at the upper north-western end of the site, are classified as derelict land and unsightly land (areas DL8 and DL9) on the Merthyr Tydfil Borough Local Plan Proposals Map. These areas together comprise about 120ha (slightly more than half) of the total site area. However, the age, scale and nature of the areas of spoil disposal on different parts of the site varies greatly, influencing the extent to which these areas have subsequently been colonised by vegetation and re-assimilated into the landscape. Areas DL8 and DL9 are subject to local plan policy GR1. The recommended treatments and after-uses for these areas in the Plan are “recontouring for forestry and amenity” and “recontouring for amenity and part business use” respectively. The areas of spoil tipping are also distributed throughout a wider mosaic of woodland, open ground, grazing land and meadow, giving rise to a mixture of wildlife habitats supporting a variety of species. Nearly all of the balance of the site (those parts not identified either as derelict or unsightly land or allocated as housing site H13 or special regional employment site E13) is the subject of a landscape protection area designation in the local plan (policy NH1 refers).
- 3.9 The range of habitats present include examples of 7 UK Biodiversity Action plan priority habitats (Lowland Meadows, Lowland Dry Acid Grassland, Purple Moorgrass and Rush Pastures, Lowland Heathland, Fen, Upland Oakwood and Wet Woodland), which together cover about 174ha (77%) of the site. Examples of 5 EC Habitats Directive Annex 1 habitats are present (Northern Atlantic Wet Heaths with *Erica tetralix*; European Dry Heaths; *Molinia* Meadows on Calcareous, Peaty or Clayey-silt-laden Soils; Alkaline Fen; Old Sessile Oakwoods with *Ilex* and *Blechnum*), collectively covering about 79ha (35%) of the site.
- 3.10 Some 29ha in the northern part of the site (formerly designated as the Cwm Glo and Cwm Pant Bach Site of Importance for Nature Conservation) was designated in 2003 as the Cwm Glo Site of Special Scientific Interest (SSSI). It is of special interest for its wet pastures and species-rich neutral grassland, and for the association of these habitats with others including acid grassland and wet heath. The citation records a wide variety of plant species, including a number of uncommon species, and notes recordings of the marsh fritillary butterfly, great crested newts and water voles in locations within the designated area. A 34ha area in the southern part of the site (Cwm Pit and Cwm Woods) is designated as a Site of Importance for Nature Conservation (SINC) (local plan policy NH5 refers). Extensive parts of the remainder of the site are currently under consideration for SINC status [Doc MIG11].

- 3.11 The habitats on the site support a range of wildlife, including a number of statutorily protected species. Great crested newts are present, having been recorded in 11 of 18 ponds identified within the site and another pond just outside the south-west boundary. At least five species of bat have been recorded. There are also significant areas of mycologically rich grassland, supporting at least 26 species of waxcap fungi, together with numbers of species of fairy club fungi, earth tongue fungi and entolomoid fungi. There is also evidence of 4 bird species listed under section 74 of the Countryside and Rights of Way Act 2000 (linnet, reed bunting, bullfinch, song thrush) and of two local priority species from the Merthyr Local Biodiversity Action Plan (palmate newt, small pearl-bordered fritillary).
- 3.12 The areas of woodland and trees on the middle and lower elevations of the site include 15 separate groups of trees, covering about 23ha in total, which are protected by Tree Preservation Order No. 15 (1983). In addition there are small areas designated as Ancient and Environmentally Important Woodland in the local plan (policy NH6 refers) at the northern and southern ends of the site.
- 3.13 The uppermost 49.7ha or thereabouts of the site at its north-west end is designated as Open Access Land under the Countryside and Rights of Way Act. The indicative phase 2 development layout suggests that some 20ha of this area would be developed. There is no definitive rights of way map for the Merthyr Tydfil area. However, several claimed public rights of way cross the site, including the Old Parish Road which leads from Merthyr across the southern part of the site to Melin Ganaid and beyond.

4. PLANNING HISTORY

- 4.1 The planning history of the site is set out in the statement of common ground produced by the main parties [Doc CD4.1]. The outcome of previous proposals relating to the site can be summarised as follows:
- 4.2 Applications were made by the NCB in 1966 and 1970 to work coal by opencast operations. The first of these was withdrawn prior to any determination; the second was the subject of a public inquiry in June 1970, leading to refusal of the application by the Secretary of State.
- 4.3 In 1986 an application was submitted by the NCB Opencast Executive for opencasting in order to stabilise part of the proposed route of the A470 and to remove coal which would otherwise be sterilised. The application was refused by the then Mineral Planning Authority in 1987; an appeal against this decision was subsequently withdrawn.
- 4.4 In 1995 permissions were granted for the deposition of material arising from works associated with the construction of the A470 to the east.
- 4.5 In 1998 an application was submitted by Celtic Energy to extract coal by opencasting and restoration/reclamation to provide a landform suitable for industrial/employment and amenity uses. The proposal was called in by the Secretary of State and the Council resolved to oppose the development. The application was withdrawn prior to the public inquiry.
- 4.6 Also in 1998 an application was submitted by Methyr Initiative Group for the use of the land to create an educational and recreational facility. An appeal against the Council's failure to determine this application was dismissed in December 1998.
- 4.7 In 2000 an outline application was submitted on behalf of Merthyr Village Ltd for leisure, retail, residential and business development on land at Rhydycar. In the absence of environmental statements, a retail impact assessment and a traffic impact assessment the processing of the application has not proceeded and the application remains undetermined.

5. PLANNING POLICY

5.1 The development plan comprises the Mid Glamorgan (Merthyr Tydfil County Borough) Replacement Structure Plan 1991-2006 (adopted in August 1996) [Doc CD2.2] and the Merthyr Tydfil Borough Local Plan, adopted in May 1999 [Doc CD2.1]. There is a statutory requirement to have regard to the development plan in determining these proposals, and to make the determinations in accordance with the provisions of the development plan unless there are material considerations which indicate otherwise.

5.2 The Structure Plan policies relevant to either the Phase 1 application or the Phase 2 application (or both) and the matters they address are as follows:

- EV1 Restricts development in the countryside to limited specified circumstances, in the interests of protecting the countryside (Phases 1 & 2)
- EV4 Permits development which would lead to visual intrusion in special landscape areas only where measures can be taken to reduce such effects to acceptable levels (Phases 1 & 2)
- EV5 Resists development likely to destroy, damage or disturb nationally or internationally recognised sites for nature conservation, and permit development adversely affecting locally important sites for nature conservation as defined in local plans only where suitable measures can be taken to ensure the survival of habitats, species or features (Phases 1 & 2)
- EV6 Deals with evaluating nature conservation value and minimising harm (Phases 1 & 2)
- EV7 Favours proposals for the enhancement and management of sites and features important for nature conservation (Phases 1 & 2)
- EV9 Favours environmental improvement schemes to maintain and enhance the quality of the built and historic environment (Phases 1 & 2)
- EV10 Resists development which is likely to destroy or damage the existing character of archaeological sites and ancient monuments, or fails to preserve, maintain or enhance where possible the existing character of historic landscapes (Phases 1 & 2)
- EV12 Deals with evaluating archaeological value and minimising harm (Phases 1 & 2)
- EV14 Supports the protection and maintenance of native broad leaved trees and woodlands, including ancient woodlands (Phases 1 & 2)
- H1 Quantifies housing land provision for Merthyr Tydfil during the plan period (Phase 2)
- E4 Quantifies business and industrial use land provision for the plan period (Phase 2)
- E5 Makes provision for additional special employment sites, including land at Rhydyccar forming part of the application site (Phase 2)
- T4 Seeks improvement of bus service networks (Phase 2)
- T6 Safeguards redundant railway lines for re-opening or re-use as roads or cycleways (Phase 2)
- T8 Promotes transportation measures to protect and enhance the environment (Phase 2)
- T9 Favours development that would contribute towards reductions in car use (Phase 2)
- T10 Seeks to ensure that new development does not prejudice the use of adjacent highways, particularly the major road network (Phase 2)
- T11 Requires mitigation of road problems arising from development (Phase 2)
- T12 Requires new roads to be of acceptable standard and offered for adoption (Phase 2)
- T14 Requires appropriate parking provision (Phase 2)
- T16 Requires provision for cyclists (Phase 2)
- D1 Stipulates that all identified derelict land will be subject to treatment appropriate to the condition and nature of the site and proposed after uses (Phase 1)
- D5 Requires that the nature conservation, historic or industrial archaeological features of the site be properly taken into account in the design and implementation of the reclamation scheme and the consideration of subsequent redevelopment proposals (Phases 1 & 2)
- D6 Requires site restoration so as to conserve or replace areas of nature conservation interest, or to create new habitats, where compatible with the proposed after-use (Phases 1 & 2)

- MIN1 Permits proposals for mineral extraction and associated development only where criteria concerning protection of amenity and the environment, restoration, after-care and after-use are complied with (Phase 1)
- MIN8 Permits proposals for extraction of material from mineral working deposits only where criteria concerning tip safety and environmental pollution are complied with (Phase 1)
- R1 Supports the maintenance and enhancement of Merthyr Tydfil town centre as a sub-regional centre (Phase 2)
- R4 Opposes large retail proposals outside town centres where the vitality and viability of nearby town centres is likely to be undermined taking into account the cumulative effects of other approved retail development; the development plan allocates an appropriate site within or adjacent to the town centre; there would be unacceptable access and traffic implications; there would be inadequate accessibility to public transport; there would be unacceptable conflict with the conservation of the environment or maintenance of local amenity; there would be unacceptable impacts on overall shopping travel patterns, particularly concerning private car travel; the proposal does not comply with policy R6, if industrial land is involved (Phase 2)
- R6 Precludes new retail development on special employment sites (Phase 2)
- L3 Favours leisure based developments within settlement areas, or adjacent to them where no suitable alternative sites are available within the built-up area (Phase 2)
- L4 Favours leisure facilities meeting local need (Phase 2)
- L5 Permits development resulting in the discontinuance of existing leisure facilities, including public rights of way, only where equivalent replacement provision can be made or it is shown that the existing facility is no longer required (Phases 1 & 2)
- U5 Prohibits development likely to harm the quality of underground or surface water (Phase 2)
- U6 Opposes development in areas lacking adequate utility services or scope for their ready and economic provision (Phase 2)

5.3 The Local Plan policies relevant to either the Phase 1 application or the Phase 2 application (or both) and the matters they address are as follows:

- NH1 Sets a range of criteria for consideration of proposals for new development in the countryside outside settlement boundaries. These include that the merits of the development should clearly outweigh the objective of countryside protection (potentially appropriate forms of development identified are tourism, leisure, reclamation, renewable energy, health and amenity, transport links and utilities); that the development is acceptable in terms of its impacts on the character amenity and landscape quality of the area; nature conservation interests; traffic and transport effects; public access; and that the proposals are in accord with other development specific policies in the local plan (Phases 1 & 2)
- NH3 Permits development affecting directly or indirectly Sites of Special Scientific Interest only where the merits of the development clearly outweigh the special value of the site (Phases 1 & 2)
- NH5 Permits development affecting sites of importance for nature conservation only where full account has been taken of the features so as to minimise the damage to nature conservation value (Phases 1 & 2)
- NH6 Permits development affecting protected trees and ancient and environmentally important woodlands only where the merits of the development clearly outweigh the value of continued protection and where there would not be an unacceptable impact on the character, amenity and landscape quality of the area (Phases 1 & 2)
- NH7 Sets criteria to ensure that development respects the water environment (Phases 1 & 2)
- BH3 Permits development affecting areas of archaeological importance and ancient monuments where it can be shown that it will not destroy or otherwise adversely affect the site and its setting (Phases 1 & 2)
- BH4 Permits development affecting listed buildings and structures where it can be shown that it will not destroy or otherwise adversely affect their character, appearance and setting (Phases 1 & 2)

- BH5 Makes similar provision in relation to buildings and structures of local architectural and historic merit (Phases 1& 2)
 - GR1 Permits development proposals for the reclamation of derelict or unsightly land subject to consideration against criteria, including the need to retain features of wildlife and historic interests (Phase 1)
 - T9 Safeguards routes of disused railway lines, including Rhydycar to Merthyr Tunnel, with potential for future transport use (Phases 1& 2)
 - T10 Permits development proposals involving the expansion of a comprehensive bus service network (Phase 2)
 - H3 Opposes proposals for housing on unallocated sites outside identified settlement boundaries except where certain criteria are met. These include that the development meets identified essential agricultural or forestry worker needs, and caveats relating to countryside protection; impact on the character, amenity and landscape quality of the area, including nature conservation and historical interests; impact on the rights of way network and public access; transportation and traffic considerations (Phase 2)
 - H4 Sets out a commitment to securing affordable housing to meet identified needs (Phase 2)
 - EB2 Identifies a site of 21 hectares at Rhydycar West (E13) (within the application site) to provide for special regional employment uses (Phase 2)
 - LRT3 Permits development proposals for the provision of golf facilities subject to consideration against criteria, including impact on the character, amenity and landscape quality of the area, including nature conservation and historical interests; impact on the rights of way network and public access; transportation and traffic considerations (Phase 2)
 - LRT4 Permits proposals for comprehensive leisure facilities subject to consideration against criteria, including impact on the character, amenity and landscape quality of the area, including nature conservation and historical interests; impact on the rights of way network and public access; transportation and traffic considerations (Phase 2)
 - LRT6 Permits proposals for serviced accommodation and hotel facilities subject to consideration against criteria, including impact on the character, amenity and landscape quality of the area, including nature conservation and historical interests; impact on the rights of way network and public access; transportation and traffic considerations (Phase 2)
 - RC1 Restricts development proposals for new retail floorspace outside the defined limits of Merthyr Tydfil town centre, by requiring such developments to have regard to national guidance concerning a sequential approach to retail development and to avoid unacceptable impact on the vitality and viability of Merthyr and other town centres; to avoid use of the industrial land identified in policies EB1 and EB2; and subject to other criteria, including impact on the character, amenity and landscape quality of the area; impact on nature conservation and historical interests; impact on the rights of way network and public access; transportation and traffic considerations (Phase 2)
 - RC2 Permits proposals for sale of durable non-bulky goods on sites or in premises outside the town centre in certain circumstances (Phase 2)
 - RC3 Permits new retail floorspace on existing industrial and business sites and estates in certain circumstances (Phase 2)
 - RC5 Permits various leisure and entertainment developments in locations within settlement boundaries, particularly in town centre or edge of centre locations, subject to criteria (Phase 2)
 - RC7 Permits new office floorspace proposals within settlement boundaries, subject to criteria (Phase 2)
- 5.4 The intended plan periods of the Structure Plan and the Local Plan are to 2006. Although some initial work was carried out on the preparation of a unitary development plan, this was subsequently discontinued in favour of preparing a local development plan in accordance with the new development plan system in Wales. Preparation of the local development plan is as yet at an early stage. The delivery agreement for the plan seeks adoption in 2009.
- 5.5 National planning policy is contained primarily in Planning Policy Wales (PPW) (March 2002) [Doc CD1.2]. The policy guidance is supplemented by a series of Technical Advice

Notes (TANs) dealing with particular matters. PPW is a comprehensive statement of the Welsh Assembly Government's position in relation to planning and development issues. The following parts of PPW are relevant to the proposals under consideration here:

- Planning for sustainability (Chapter 2)
- Development plans (Chapter 3)
- Making and enforcing planning decisions (Chapter 4)
- Conserving and improving natural heritage (Chapter 5)
- Conserving the historic environment (Chapter 6)
- Supporting the economy (Chapter 7)
- Transport (Chapter 8)
- Housing (Chapter 9)
- Planning for retailing and town centres (Chapter 10) - now replaced by MIPPS 02/2005
- Tourism, sport and recreation (Chapter 11)
- Infrastructure provision for waste water management (Chapter 12)
- Dealing with unstable and contaminated land (Chapter 13)
- Noise and air quality issues in relation to development (Chapter 13)

5.6 The following TANs deal with issues relevant to the development proposals [Docs CD1.5-CD1.17]:

- TAN1 Joint housing land availability studies (1997 - revised June 2006)
- TAN2 Planning and affordable housing (1996 - revised June 2006)
- TAN4 Retailing and town centres (1996)
- TAN5 Nature conservation and planning (1996)
- TAN10 Tree preservation orders (1997)
- TAN11 Noise (1997)
- TAN12 Design (2002)
- TAN13 (Tourism)
- TAN18 Transport

5.7 In addition, Minerals Planning Policy Wales (December 2000) [Doc CD1.4] sets out national planning policy in relation to minerals matters. Amongst other things, it contains guidance concerning protection of areas of environmental and historical importance, the assessment and management of environmental impacts and restoration, aftercare and after-use. Other earlier, but still extant Minerals Planning Guidance provides more detailed advice on matters such as colliery spoil disposal, reclamation of mineral workings, control of noise at surface mineral workings and treatment of disused mine openings.

5.8 The Wales Spatial Plan (WSP) [Doc CD1.1], published by the Welsh Assembly Government in November 2004, is also material to the consideration of these proposals. Its purpose is to provide an integrated strategic framework to guide future development and policy interventions through to 2020, whether or not these relate to formal land use planning control. As such, it goes well beyond land use planning operating in a more compartmentalised functional and geographical context. The WSP has two main parts. The first is the national framework, which sets out the spatial vision for Wales as a whole based on core principles of building sustainable communities; promoting a sustainable economy; valuing our environment; achieving sustainable accessibility; and respecting distinctiveness.

5.9 The second main part focuses on the different areas of Wales and identifies a vision, strategy, propositions and actions in relation to each. Merthyr Tydfil lies within the area called "South East - The Capital Network", which encompasses the coastal and valleys areas of south-east

Wales. This part of the WSP notes the high levels of social deprivation and economic inactivity experienced by the Heads of the Valleys area, and identifies a strategy of joined-up regeneration action along the Heads of the Valleys corridor, focusing initially on unlocking the potential of Merthyr Tydfil and Ebbw Vale. It states that the Welsh Assembly Government will work with local authorities and the private sector to develop a coherent joint strategy to maximise the potential of the A465 corridor, including targeted investment in Merthyr Tydfil and Ebbw Vale so that they can drive regeneration in the Heads of the Valleys zone. The strategy will need to focus on promoting developments in housing, retail, leisure and town centres as well as in economic development.

- 5.10 Building on the Wales Spatial Plan, the Welsh Assembly Government has more recently published a consultation document "Heads - We Win..." (March 2005) [Doc CD1.27], which sets out a vision for the revitalisation of the Heads of the Valleys area through the period to 2020, with the economic and social enhancement of area hubs such as Merthyr Tydfil and Ebbw Vale.
- 5.11 Various Ministerial Circulars, Regulations and Directives are also relevant to different aspects of the development proposals. Welsh Office Circular 11/99 [Doc CD1.19] gives guidance on the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 [Doc CD1.18]. Welsh Office Circular 60/96 [Doc CD1.21] provides guidance on Planning and the Historic Environment: Archaeology. National Assembly for Wales Circular 23/2001 [Doc CD1.20] provides guidance on revisions to licensing procedures under the Habitats Directive for developments affecting European protected species, as implemented through the Conservation (Natural Habitats, &c) Regulations 1994 [Doc CD3.4].

6. THE DEVELOPMENT DETAILS

- 6.1 The primary element of the development comprised in the phase 1 proposal (application 020060) consists of the reprofiling of significant parts of the application site by the excavation and spreading of certain areas of old spoil tip [Doc 5]. The spoil tip areas concerned vary considerably in their nature, age and appearance and comprise various discrete areas of ironstone and coal working spoil on different parts of the site, together with an area of more recent deposition of excavated material arising from the construction of the A470 nearby. The principal areas of spoil excavation would be: (i) the lower north-eastern sector of the site around Cwm Glo/Nant Rhydycar/Upper Colliers Row, and further south in the vicinity of Lower Colliers Reservoir/Lower Colliers Row; (ii) in the vicinity of the former Cwm Pit in the southern part of the site; and (iii) in the area of the former Cwmdu Colliery in the north-west, upper part of the site. The total area of spoil excavation was estimated by the applicant as about 67 ha, although this has subsequently been reduced slightly by the deletion of the northern part of the Cwmdu Colliery spoil heaps from the proposal. This change arises from a reduction in the land area proposed for residential use in phase 2 on the upper part of the site following designation of the SSSI, and a corresponding reduction in the extent of modified landform required in order to accommodate this element.
- 6.2 The overall extent of modification of the existing landform is shown schematically on Fig 26 Revision C [Docs 5/CD6.3]. This drawing shows the areas of the site where the existing profile of tipped material would be either partially cut away or cut away to original ground level, together with the areas where the excavated material would be spread. The primary purpose of the phase 1 proposals is to create a landform suitable to accommodate the development proposed by phase 2. As the ES phase 1 contour plan Fig 28 Revision A [Doc CD5.1 Appendix] shows, the principal features of the modified landform would be 3 large plateaux along the eastern sector of the site, on which some of the elements of the development proposed in phase 2 would be located.
- 6.3 As part of the spoil moving operations a coal recovery operation would also be undertaken in respect of those areas of spoil with sufficient coal content. It is estimated that the coal content of the colliery spoil areas may average 10%; ironstone tips may also contain some coal, but to a lesser extent. Approximately 200,000 tonnes of coal could be extracted. The coal recovery process would involve the establishment of a washery facility on the site, where the coal would be separated for transportation from the site. The washery facility would be within the southern part of the site, in the location indicated on Fig 26 Revision C. It was confirmed at the inquiry that coal recovery is proposed as an ancillary operation to the primary purpose of the phase 1 proposal, which is to create a suitable landform for development proposed in phase 2. The phase 1 development, if approved, would also incorporate other remediation, safety, stabilisation and drainage measures arising from past mining activity needed to enable the phase 2 development to proceed.
- 6.4 If permission is granted, the overall anticipated timescale for carrying out the phase 1 operations is 18-21 months following the initial lead-in period.
- 6.5 The phase 2 proposal (application 020260) is in outline form, with consideration of development details other than means of access to the site reserved for later determination. The broad pattern of development proposed for the site is shown on the indicative site plan drawing 013045-10-21 P2 [Doc CD6.2]; this is a schematic representation of the broad disposition of uses and the main highway network within the site. It is intended that the precise form of development, including the detailed alignment of access roads and other

routes and the layout of each individual part of the overall scheme, would be determined by subsequent reserved matters applications at appropriate times as development of the site progresses.

6.6 The primary vehicular access to the site would be from the A470 Rhydycar roundabout, which would be modified in order to accommodate the development; a secondary access route into the same part of the site from Abercanaid is also proposed in order to relieve forecast overloading of the Rhydycar roundabout around 2017. This would also serve as an emergency secondary access in the early stages of the scheme.

6.7 The main elements of the proposed phase 2 development are as follows:

- Retail and leisure development, comprising 32,400m² of non-food retail floorspace and 9,300m² of leisure uses, located on a plateau formed by the phase 1 works on the lower part of the site extending northwards alongside the A470 from the Rhydycar roundabout.
- Other primary non-residential uses (6,500m² of business units, 1,850m² of A3 food and drink uses, 10,000 seater stadium with associated practice ground and a 70 bed budget hotel) located on a plateau former by the phase 1 works on the lower part of the site extending southwards alongside the A470 from the Rhydycar roundabout.
- A good quality 100 bed hotel and golf driving range also located towards the southern end of the site.
- Residential development extending across the remainder of the developed area of the site. These are shown on the indicative proposed site plan as comprising 1,014 3/4 bedroom houses extending across the upper sector of the developed part of the site at an average density of 20 units per hectare based on net site area, and 768 1/2 bed flats and 2/3 bedroom terraced and detached houses on the lower northern sector of the developed part of the site, located principally on a plateau formed by the phase 1 works and having an average density of about 39.5 units per hectare based on net site area.
- A site for a school/community facility, located centrally within the northern sector of the site.

6.8 If permitted, the development of the site would be phased over a number of years [Doc MV1 Appendix MC1]. Based on a grant of permission in Summer 2006 and commencement of the phase 1 development in Spring 2007, it is anticipated that phase 2 development would commence in Autumn 2008. Construction of non-residential elements of the scheme would occur in phases, starting with business employment development and leading up to the retail and leisure uses in the period Spring 2012-Spring 2014. The residential part of the scheme would also commence in Autumn 2008 and progress in stages, with about 814 units (45% of the total) being built by 2014.

7. THE CASE FOR MERTHYR VILLAGE LIMITED

The main points of the case put for the applicant are as follows:

Introduction

- 7.1 These proposals represent an opportunity of generational importance for Merthyr Tydfil. Their scale has the potential to lift Merthyr from its present position of decline and to cement it as a driver of a new, confident head of the valleys.
- 7.2 Opportunities for development at this scale are few in number. When development of such scale is promoted, it inevitably brings with it conflict with other areas of acknowledged importance. The challenge in this case is to recognise the benefits in human and economic terms of the development and to balance these against the inevitable impacts of development.
- 7.3 In many ways, particularly when faced with objections from powerful and influential bodies such as Cadw and CCW, the safe, easy option would be to refuse the consents sought. But such a refusal would also constitute, yet again, a refusal to grapple with the needs of the people of Merthyr Tydfil and the Upper Valleys. Such a refusal would represent the setting aside of the best way of achieving the Assembly Government's most recent and boldest policy initiative for the area. A refusal would stall momentum and harm confidence.
- 7.4 The applicant's case rests on a series of five key propositions in support of the proposals. These propositions encompass the matters about which the Assembly Government seeks to be informed.

Proposition One: There is a clear planning and policy requirement for further significant strategic development in Merthyr Tydfil.

- 7.5 It is plain that all is not well in land-use planning terms in Merthyr Tydfil. The decline in recent decades is obvious. Recent successes, though welcome, are limited in scale and only serve to highlight the missed potential inherent in the town.
- 7.6 The unchallenged evidence of Professor Munday [Doc MV 2] is to the effect that, notwithstanding some recent success, the underlying structural decline is real and continuing. This evidence is compelling and should be given the utmost weight. The evidence on depopulation is particularly stark and identifies the fact that the impact of out-migration is particularly marked in the age cohorts with most to offer Merthyr. The various indices of multiple deprivation within Merthyr are literally shameful, with the County Borough regularly being identified as the worst performing authority in Wales and among the worst in the whole of the UK.
- 7.7 Without significant, strategic scale development in the Heads of the Valleys, the future is unpromising. The area needs to become a place where people from all sections of society work and want to live rather than a place that the young, bright or able seek to desert.
- 7.8 The need for a strategic development-led repositioning of Merthyr has now been recognised in policy terms. These policies are directly applicable to the determination of these applications and are to be given the greatest of weight.
- 7.9 The Wales Spatial Plan was published in November 2004. It is therefore relevant and up to date in policy terms. It seeks to set the land use planning agenda for the country for the next 20 years. The document makes it clear that the strategy is meant to guide the development of local authority plans and individual planning decisions [Doc CD1.1 p5].

- 7.10 The plan identifies its first challenge under the heading “The National Framework-Sustaining Communities” as tackling deprivation and particularly concentrations of poverty and worklessness. The largest concentrations of deprivation are found in the upper South Wales Valleys [Doc CD 1.1 Fig 5]. A national priority is ensuring that these areas get “concerted, creative and focused investment if they are to make significant progress in tackling problems of poor health, worklessness, lack of commercial investment and low skills”. [Doc CD 1.1 p8].
- 7.11 The second challenge is identified as population change. The plan identifies a trend towards declining population in the upper valleys. The trend reduces the balance in the social mix of the population which in turn increases the problems of deprivation.
- 7.12 Merthyr sits in the South East section of the Plan, as does the hugely vibrant and wealthy capital city. In this section very specific guidance is given to tackling deprivation and population decline in the upper Valleys. For a strategic document, it is remarkably incisive and specific in relation to the path needed to regenerate the Valleys. Pages 49 and 50 are clear and unambiguous as to the mandatory nature of the strategy for addressing deprivation. These state that the Heads of the Valleys corridor “will be strengthened as an attractive location for people to live and for development, to help secure more balanced prosperity across the area. Merthyr Tydfil and Ebbw Vale are the key centres on the corridor providing the population size and strategic development opportunities necessary for sustained economic development, retailing, housing and service provision.”...“These centres should act as a catalyst for the regeneration of the upper valleys helping to retain and attract a socially mixed population and provide a counterweight to the coastal urban areas.”
- 7.13 Two key propositions state that: “The Valleys need to be strengthened as desirable places to live, work and visit...” and “Private house building...has a key role to play in the regeneration of the Valleys. Well performing schools, leisure and retail facilities, will also be important in attracting people to live in the Valleys.”
- 7.14 It is clear therefore that the Assembly Government envisages the requirement for “strategic development” in Merthyr to tackle deprivation and depopulation. The development must be of sufficient scale to begin to allow the Heads of the Valleys to act as a counterweight to the coastal urban areas. As to the components of the strategic development, housing, employment and retail are all specifically identified as important drivers of regeneration.
- 7.15 It is of course correct that the document also indicates that development must not compromise the attractiveness of the area’s wider environment which is a key factor in its attractiveness to skilled workers. These are all matters of judgment and balance which depend critically on the nature and extent of the strategic development and upon the availability of sites upon which the needed strategic development might be located.
- 7.16 This overall strategy and the requirement for strategic development in Merthyr is reflected in “Heads - We Win...”, a draft strategic framework for the Heads of the Valleys. The document is only in draft, but by the time of the determination is very likely to be adopted.
- 7.17 Insofar as it reflects the guidance in the Strategic Plan, it is to be given significant weight. The document again highlights the potential for Merthyr Tydfil to act as an area hub with an essential role to play in providing the full range of modern facilities necessary to help retain and attract skilled and well qualified people.
- 7.18 What it is perhaps most notable for however is the recognition by the Minister in the Foreword to the draft document that previous strategies have failed to deliver and that the

time is right for a new strategy now. This recognition highlights the fact that the strategy adopted by the Spatial Plan is new, and so in many respects cannot be reflected in the extant development plan policies and strategies. There is nothing in these which comes close to recognising Merthyr as an area hub or catalyst for the whole of the Heads of the Valleys area. Its land use allocations and strategy cannot and do not reflect this new agenda.

7.19 In summary:

- There is an up-to-date and relevant policy imperative to address social deprivation and depopulation by strategically important development-led regeneration.
- That strategic development should include housing employment and retail of a scale which assist in forming a counterbalance to the overheating coastal towns.
- The strategy is a new and bold strategy which is meant to take the place of previous failed strategies.

7.20 None of this important strategic background was identified or weighed in the officer's analysis of the case which led to the recommendations to refuse. This is a serious, fundamental, and inexplicable omission from that analysis. Reliance upon it as an appropriate balancing exercise by CCW is misplaced.

Proposition 2: The proposal is a good fit with the specific strategic imperatives identified for Merthyr.

7.21 The proposal promotes a mixed use development of strategic scale. It increases the depth, range and choice of housing within the County Borough in a strategically important way. For many professional, skilled and other workers, the choice to remain in or to move to Merthyr in significant numbers will now be a realistic one.

7.22 It provides significant employment opportunities and an enhancement of Merthyr's retail offer which will allow it to compete more efficiently with the coastal towns particularly Cardiff. It provides schools and other community facilities and opportunities which will create a sense of place and will be of benefit to the whole of the upper valleys.

7.23 The proposal has the potential to be strategic enough to change perceptions of Merthyr as a place in which to work and live. It will assist in Merthyr's position as area hub and act as a catalyst for the rest of the upper valleys.

7.24 In planning terms, Mr Crook's clear and unambiguous evidence was to the effect that the proposal met the strategic requirements of the WSP. He was not seriously challenged on this.

7.25 In economic terms, Professor Munday was equally assured. His unchallenged evidence of the multi-layered consistency between the proposal and relevant policy is set out at para 3.4.3 of his evidence [Doc MV 2]. It should be given significant weight.

7.26 In summary, it is difficult to conceive of a development-led project that more closely ties in with the strategic requirements of the plan. The issue is whether the proposal is properly located. It is to these matters that the next two propositions turn.

Proposition 3: There is no other location in Merthyr at which such strategic development might take place.

7.27 Once the imperative for strategic scale development to allow Merthyr to drive the renaissance of the Valleys is grasped and accepted, the absence of an alternative site or sites upon which such imperative can be met becomes apparent.

- 7.28 The town of Merthyr is very tightly constrained by its topography and human geography. A glance at the proposals map might indicate the potential for a number of sites to contribute to a strategic scale of development but in reality none can come close to providing the type of catalyst required by the Spatial Plan imperative. They are either far too small or have already been committed for other development, as confirmed by Mr Williams in evidence. Strategic opportunities of the type referred to by the Assembly Government and shown to be needed by Professor Munday are not likely to be easily overlooked if they truly exist.
- 7.29 The issue of potential alternative sites was canvassed at some length at the pre-inquiry meeting as a result of the proposition contained within CCW's rule 6 statement that potential alternative sites existed upon which need could be met and the applicants' submission that these sites, if they existed, should be identified. Following careful consideration and consultation with officers of the authority, CCW have indicated in open correspondence that they would not be identifying any site or sites as an appropriate alternative as part of their evidence [Doc MV 6A letter dealing with ecology and general issues].
- 7.30 The applicant's position throughout has been that there is no alternative, strategically significant site or combination of sites upon which the strategic need can be met. The local planning authority shares this position. As a matter of evidence, no alternative site or sites upon which the strategic needs of the area as a whole can be addressed has been seriously proffered to challenge this position.
- 7.31 The issue of whether the meeting of the strategic need should await the new development plan process is dealt with below under proposition 5.
- 7.32 The consequence of there being no other alternative site or sites upon which the strategic need identified can be met is profound. It provides the essential context for a consideration of the environmental and other impacts of the proposal – a context absent from the evidence of the other parties.

Proposition 4: The development control and other impacts of the proposal fall to be considered against the background of propositions 1-3 and come nowhere near being sufficient to turn away the benefits of the proposal.

Introduction

- 7.33 The issues which fall for consideration under this head inevitably took up most of the inquiry's time. The matters raised by the objectors are serious and important, and need to be thoroughly addressed. However, the development impacts of the proposal are but one side of a complex balancing exercise with, potentially, the future of Merthyr's economy and human population at issue.
- 7.34 Moreover, both CCW and Cadw's response to the proposal was conditioned by a complete lack of understanding of what is achievable by way of mitigation through the mechanisms of a long-term section 106 agreement. The CCW and Cadw proofs reflect an understanding that the proposal would wreak unmitigated and complete devastation upon the application sites. Nothing could be further from the truth. The section 106 agreement provides one of the most comprehensive packages of mitigation, protection and enhancement that has ever been proffered to an inquiry in Wales.
- 7.35 The issues raised relevant to this proposition are as follows:
- Historic landscape and archaeology
 - Habitat and ecology

- Retail/employment impact
- Transportation and sustainability issues

7.36 The landscape impact of the proposal in broad visual terms has not featured greatly in the inquiry. This is a matter of pure subjective judgment. It is accepted that the proposal is bound to have an impact upon the landscape of Merthyr Tydfil in a relatively visible location. However, that is an inevitable consequence of strategic scale development. The issue is whether the proposal is capable of being mitigated to such an extent that, when viewed within the landscape as a whole, the development can sit acceptably with the existing development and countryside.

7.37 Given the identified needs, the consistency of the application with those needs and the absence of an alternative opportunity site, the mitigation measures proposed by the applicants are capable of producing an acceptable townscape and landform.

7.38 It is unnecessary to spend much time on the proposition that the site should not be developed because of the contribution the site might make in the future to meeting the need for strategic coal reserves. It is ironic that the Methyr Initiative Group, a group with a long history of opposition to opencasting at the site, should now be the only substantial objector to the scheme to rely on the potential of the coal under the site to oppose its development for regeneration purposes.

7.39 The coal on the site is near the surface and can only be recovered by opencast. Given the site's historic and ecological value, it cannot rationally be asserted that the applications should be set aside now on the basis that it should be reserved for opencasting in the future.

Historic Landscape and archaeology

7.40 Nothing in the applicant's case is meant to indicate a lack of appreciation of the historic role of Merthyr in the world or an undervaluing of the importance of the artefacts or relics of that illustrious past. Merthyr clearly had a pivotal role in the emergence of Britain as the first industrial nation. The physical record of that role is hugely important and irreplaceable. The issue is how to balance these matters with the needs of today's population.

7.41 Second, the applicants have a real concern about the overall role of Cadw at this inquiry, which it would be inappropriate not to state. Cadw's stated position is clear. It recommends refusal of planning permission on the basis of the impact of the proposals upon the historic environment. Cadw's role as part of the Assembly Government and advisor to decision makers on historic environment matters is clear and understood. But if it is to engage in judgments as to whether planning permission should be granted or not, it should do so on a proper procedural and evidential basis consistent with planning policy and law.

7.42 That has not happened in this case. In evidential terms there has been no consideration whatsoever of the issues of balance which are so important to the determination of the case. This influences the weight which can be afforded Cadw's recommendation to refuse.

7.43 In procedural terms, the position is even worse with no accountable, transparent, internal decision-making process or authorisation disclosed at all. Indeed the inquiry was told, extraordinarily, that Cadw had sought the guidance of the Minister (part of this decision making forum) as to how it was to present its case in the circumstances of this call-in. This raises real issues which are not matters for the Inspector but go to the heart of the fairness of the proceedings as a whole and should be recorded here.

The development plan

7.44 The development plan is the starting point for any determination of these applications for planning permission.

7.45 It is to be remembered that the existing development plan does not reflect the strategic imperative for significant development-led regeneration in Merthyr. To this extent it is out of date. Further, its development control policies fall to be read in the light of this requirement for strategic scale development. However, even in the pre-strategic imperative world, the development plan recognised that the issue of balancing the interests of heritage and conservation with the economic and social needs of the community is essential.

7.46 In this context, the weight to be given to its policies and content in the exercise of that balance is significant. This is particularly the case because the approach of the development plan is self evidently consistent with PPW and its guidance on balance.

7.47 At Chapter 5, para 5.1 the Local Plan [Doc CD2.1] states that the heritage of Merthyr Tydfil has been created over centuries and is irreplaceable. Nonetheless, it recognises: *“However it will not always be feasible to retain all aspects and features of heritage in the wider sense or in the form of design and appearance of their original construction.”* With this balance in mind, the plan then sets out to identify which of the parts of built heritage fall to be protected and to what extent.

7.48 The structure of Chapter 5 is clear:

- The plan recognises the existence of the Register of landscapes of historic interest and Merthyr’s position within it.
- Within the influence of the Register, the Cyfarthfa Heritage Area is identified and protected by policy BH1. It does not include the applications site and is described as a single, interrelated comprehensive entity (5.7).
- Scheduled ancient monuments are identified as important material considerations (5.18)
- Areas of archaeological importance are identified and indicated on the proposals map (5.16). These do not include the applications site, although Mr Oakey on behalf of Cadw argued that BH3 should be read to include them. This is plainly incorrect.
- BH5 seeks to protect buildings and structures of local architectural merit from unacceptable impacts of development. A list of BH5 buildings and structures is identified. It includes insofar as is relevant to the application sites:
 - (i) Remains of the Glamorganshire canal
 - (ii) Merthyr Railway tunnel and remaining railway lines
 - (iii) Cwm Colliery Site
 - (iv) Cyfarthfa Canal Cwm Woods

7.49 From an accurate assessment of the adopted development plan it follows that the development site is in no way identified as a no-go area for potential development by reason of its historic interest. Indeed BH5 anticipates and specifically contemplates the potential for successful development in relation to the identified historic assets on the applications site, subject to the issues of impact on character and appropriate design. The development plan’s protection of these specifically identified assets on the site nowhere stipulates that the site should not be developed.

7.50 As a matter of fact and principle, consistent with the overall shape of the indicative site proposals plan, all of the specifically identified buildings and structures identified within the application site can be retained, albeit within the context of a strategically important development [Doc MV 5B].

- 7.51 The aims of the policy, namely to ensure through development control a high quality of design and a resistance to unsympathetic changes to the character of the buildings and structures, can also be achieved.
- 7.52 The requirements of the key development plan policies on the historic environment are therefore met.
- 7.53 Importantly it should be remembered that the key reason for the protection of these historic features is the ability they give us today to interpret properly our past. None of the assets on the site are presently the subject of any formal protection regime or any form of interpretation facility. Most are not publicly accessible at all and/or are physically inaccessible to all but the most able-bodied. Many of the remains are in poor condition and are rapidly deteriorating further.
- 7.54 There are no proposals or funds significantly to alter this status. The proposal provides the opportunity to provide free, open safe public access to the key artefacts and the ability, in conjunction with a heritage facility for members of the public of Merthyr and elsewhere, properly to understand the role of the site in their history.
- 7.55 The suggestion, nowhere foreshadowed in any of the proofs of evidence of Cadw, that somehow the development plan strategy for protection of the best of the areas historic environment was out of date or failed properly to grasp the overall importance of the Cyfarthfa lease lands to the historic environment is understandable, but not persuasive: it fails to recognise the wealth of information available to the framers of the plan at the time of adoption or the role of Cadw in the plan making process. The truth is that even applying the pre-strategic growth policies of protection to the proposal, the development substantially accords with the historic environment policies of the development plan, which is relevant and up to date.

Impact on the historic landscape and other assets

- 7.56 Notwithstanding the above, it is recognised and accepted that the impact of the proposals upon the historic landscape as a whole and upon other historic assets not identified in the development plan remains an important material consideration.
- 7.57 Those objecting to the proposals adopt a series of considerations against which to judge the proposal. CCW seek to identify the impact of the proposal upon the historic landscape by reference to the Assessment of the Significance of the Impact of Development On Historic Landscape (ASIDOHL) process.
- 7.58 The site, as with almost all of the town of Merthyr, is identified upon the Register of Landscapes of Historic Interest in Wales as being of Outstanding Historic Interest. However, this identification is not meant to act as a prohibition on development within the landscape. Rather the intention is to feed the identification into the overall planning process in ways which will allow "the key historic elements and characteristics from the past to be retained while still meeting modern needs." [para 1.5 Guide to Good Practice Doc CD2.7a].
- 7.59 Further the Guide to Good Practice in a Technical Annex establishes a methodology for the ASIDOHL process. This assessment can then be fed into the planning process as a material consideration to be weighed in the balance in the determination of whether planning permission should be granted or not.
- 7.60 In this case, there is a fundamental difference of conclusion in relation to the ASIDOHL analysis between the applicants and CCW who chose to rely on the evidence of Dr Gwyn.

7.61 The evidence of Dr Gwyn should not be accepted. It was overblown, exaggerated, inaccurate and led to a conclusion which was patently incorrect. The key matters to bear in mind about his evidence are as follows:

- He did not undertake his own holistic, internally audited ASIDOHL assessment, but merely sought to alter various assumptions in the Oxford Archaeology assessment.
- His partial assessment began from a self-avowed absolutist stance. His view was that there should be absolutely no modern built development on any part of the application site as a matter of principle. His starting point was thus contrary to the position of the development plan which allocates land for strategic employment on the site and contemplates the potential for successful development on the balance of the site BH5. No Cadw witness even came close to this puritanical approach.
- This stance disproportionately affected his judgment as to the value to be ascribed to the individual character areas (ASIDOHL stage 4). In taking vehement issue with the applicants' identification of the relative importance of the Historic Landscape Character Areas (HLCAs), Dr Gwyn unwittingly took issue with GGAT (Contracts) consultant's much more balanced assessment. His explanation when taxed with this was that the GGAT document had been produced without the benefit of the Roberts Historic Landscape characterisation [Doc CD29]. This was incorrect; that analysis was fully available to GGAT at the time of their more measured assessment of the value of the character areas.
- Dr Gwyn mechanically and without question "bumped up" the values of direct physical impacts by inflating the site category results by one level as a matter of principle. There is no support for this in the Technical Annex at all. [Docs CCW63 & CCW64].
- Dr Gwyn has taken very little if any account of the mitigation measures proposed or achievable through the planning process. Further he has taken absolutely no account at all of any "benefits improvements or amelioration that a developer is claiming to offer in terms of conservation work, improving access and increasing opportunities for study etc..", as required by the Guide to Good Practice [Doc CD2.7a p30].
- His conclusion based on an accumulation of all of these altered assumptions was to the effect that if the proposal were to be allowed, the impact of it would mean that the overall value of the entire landscape area on the Register would be diminished to the point that the landscape of Merthyr Tydfil as a whole would no longer justify inclusion on the Register. This conclusion is risible.

7.62 The assessment carried out by Oxford Archaeology is much more measured. Its conclusion that the impact of the proposal would be Moderate, has the ring of truth about it and should be preferred. It is in many respects consistent in approach with the phase 1 ASIDOHL undertaken by GGAT (Contracts).

7.63 There will be some damage to the historic landscape as a result of development of strategic scale. It would be inappropriate to deny that. The question is whether that damage is so unacceptable that the key benefits of the proposal should be set aside. It is submitted that with proper mitigation any identified harm does not justify turning away the proposal's benefits.

7.64 Cadw's approach is to consider the impact of the proposal on individual historic assets and their settings and the impact of the proposals upon the historic landscape in terms of areas of coherence and articulation.

7.65 Perhaps recognising the limitations of the ASIDOHL approach to the circumstances of the case, Cadw sought to employ separate and different techniques to consideration of the impact of the proposal. First, Cadw specifically commissioned the West Merthyr Historic Landscape

Study which identified zones of coherence and articulation. It is said by Cadw that the impact of the proposals on these zones is the best way by which the impact of the proposal upon the landscape can be considered. Second, Mr Turner assesses the proposals' impact upon Scheduled Ancient Monuments (SAMs) and other sites worthy of protection.

7.66 The articulation and coherence analysis is undoubtedly a useful tool for the decision maker but the weight to be given to it in the overall decision making process cannot be determinative. It is not a policy tool which gains any support from the development plan or government guidance. There is no guidance as to how it fits into the planning process. There is, for example, no guidance by which to judge the acceptability of an impact of development upon any particular zone. Further, it differs from ASIDOHL in that it identifies the impact of proposals on small areas within a landscape as a whole. It therefore does not allow a coherent judgment to be made as to the impact of a proposal on a landscape as a whole.

7.67 The analysis alleged that four main zones of articulation and/or coherence on the site can be identified. The exact physical boundaries of each zone will of course be a matter for judgment as will the issue of the impact of the proposals. Notwithstanding these concerns however, the zones of articulation and coherence can be shown to be significantly protected in their essential parts by development which is broadly consistent with the master plan proposals.

7.68 Some of the areas will undoubtedly be lost to development in phase 1 and phase 2 of the proposals but it is significant how substantial the retention of the areas will be when their key features and roles are identified:

- Zone of articulation A is the transport corridor to the south east of the site. Cadw say that 60% of this area will be lost, but in fact the master plan either leaves, or with minor detailed amendment is capable of leaving, almost all that is important about this corridor intact [Doc MV 5B (v)]
- Zone of articulation B is that associated with Cwm Pit and its transport infrastructure. Again the master plan leaves or is capable of leaving all that is important about this zone largely intact. There will need to be re-profiling of existing tips, but substantial parts of the tips in this site are not original and/or are likely to be the subject of safety works in any event. The canal levels can be identified, interpreted and kept in situ.
- There will inevitably be a substantial impact on zone of articulation C, notably the loss of the Coedcae Pit spoil tips, but the key linear features can be maintained or replicated and Robbin's Pit can be maintained and interpreted, made safe and public.
- There is very little impact on zone D at all. It sits outside the developed part of the site.

7.69 Mr Turner's analysis seeks to identify the SAMs and the proposal's impact upon them and "other archaeological sites worthy of preservation" drawn from the local plan and the West Merthyr Landscape Study report. Mr Turner accepted in response to questions that there was limited likelihood of further significant sites as yet undiscovered.

7.70 As to the SAMs, they will be preserved in situ as a result of the proposal. The settings of these monuments will be significantly altered. In the case of the two elements of the Cyfarthfa canal, the existing settings would be entirely removed as a result of the proposals. This alteration of setting weighs against the proposal but should be seen in context. At present, the remains of the canal are difficult if not impossible to locate at all. At least two of Cadw's witnesses were unable to locate the SAM, despite detailed map references. It would be better in archaeological and interpretation terms for this SAM to be properly identified, retained and interpreted. The weight to be given to the alteration of the setting of the SAM should thus not be significant when weighed against the benefits of the proposal.

- 7.71 In the case of the Cwmdru air shaft and fan, its wider setting will be altered but to a lesser extent. The air shaft lies outside the area to be developed and can be appropriately restored and interpreted. It will sit within an undeveloped area where its appropriate immediate setting can be controlled by the terms of the section 106 agreement.
- 7.72 The vast majority of the other features worthy of preservation, whether linear features or key sites identified in the West Merthyr Historic Landscape Study, are all capable of being retained on site and brought alive by sensitive interpretation [Docs MV 5B, MV 14]. With full public access and interpretation and large scale retention of key features in situ, the development will enable a greater understanding by a greater number of people of the role of the site within the Cyfarthfa estate and assist the long term protection of these features.
- 7.73 As to the overall approach to the issue of development as a matter of principle, Mr Maylan accepted that development of the application site was not in principle unacceptable [Doc CADW C para 3.5.12], and that an important consideration in the determination of the application ought to be whether the proposal rendered the display and understanding of the links between the individual sites and their connections to Cyfarthfa impossible. This is a sensible approach to the issue. The links between the site and Cyfarthfa in physical terms have been severed by the A470. In functional terms the links ceased much longer ago. The historic links are understood by few and are nowhere immediately apparent or realistically legible.
- 7.74 The proposal will allow the many to understand and to read what at present is the preserve of the few. Properly conditioned and with the guidance of Cadw and CCW at all relevant times, the proposal gives an opportunity to enhance the understanding of the historic links of the site to Cyfarthfa, albeit that such overall enhancement will bring with it the inevitable loss of some historic assets.
- 7.75 Moreover, it is important to remember that the historic landscape and its components are not just sitting there waiting for future generations to rediscover them. Many features are rapidly deteriorating and many are in need of attention. If this proposal is turned away that decay will continue.
- 7.76 Further, it is common ground that the tips are moving as the water levels within the site alter. Remediation work has been necessary in the near past and is inevitable in the future. There can be no certainty as to the scale of the works necessary on the tips in particular. But the applicant is the landowner and would be likely to share in the liability for any injury or harm produced by tip slips. Its engineers' advice is to the effect that significant remediation and re-profiling works on a number of the tips, including the Cwm Glo and Coed Cae pit spoils, is required in the short term [Doc MV 3A Appendix 6]. In engineering terms these short term solutions appear to be acceptable in principle to the local authority.
- 7.77 Further, other safety concerns have already meant that British Coal have had to come to the site and effect emergency repairs and fenceings-off. Of course, British Coal will always seek to engage in the site in a way which is consistent with the wishes of Cadw and CCW, and will where appropriate consult before such works are undertaken. But by definition such works are reactive, piecemeal and often urgent in nature. There is no guarantee that important historic assets will not be lost in the process. The proposal, guided by the section 106 strategies and objectives, provides a comprehensive opportunity to halt the decay of the existing assets, to make safe in a co-ordinated way the tips and bell pits and other obvious hazards.

Habitat and ecology

General matters

- 7.78 There is no sustainable evidence of otter breeding or feeding on the site. None of the surveys has identified significant stocks of fish in any water course.
- 7.79 The development plan position is clear and is consistent with PPW. It is best summed up and characterised by Policy EV5 and para 6.7.1 of the adopted structure plan [Doc CD2.2]. This indicates that in some circumstances it may be possible for the need for a particular development within a specific site to be considered to outweigh adverse effects on nature conservation interest, and that measures need to be taken to ensure that habitats, species or features will be appropriately treated by way of mitigation.
- 7.80 Mr Chaplin's suggestion that candidate SINC's should be treated as SINC's is plainly incorrect. Reliance upon what another Inspector said in the context of a UDP inquiry where there was apparently no issue as to the nature of the evidence of a site's value is wholly insufficient to support the proposition that in this case draft and emerging potential SINC's should be treated as if they had already been confirmed. Mr Easton's position for the Council is to be preferred. The candidate SINC's are just that and the unpublished report is necessarily of little policy status.

Habitat/biodiversity

- 7.81 The proposal will result in the loss of significant areas of existing semi-natural BAP habitat. That is inevitable and falls to be weighed in the planning balance. This is especially the case if there is no other site on which the strategic needs of the Heads of the Valley can be met.
- 7.82 However in the absence of development, if grazing pressure ceases, as the evidence suggests that it surely will, there would be an inevitable loss of much of the current interest within the application area. Thus much grassland, heathland and habitat are at risk of being lost to further woodland and scrub in any event.
- 7.83 The proposal would ensure that significant retained areas are capable of being appropriately managed for the long term. Little if any ancient woodland would be affected by the proposal. Scarce and notable species would be rescued and translocated as part of the process.

SSSI

- 7.84 The proposal does not include development on the SSSI. Indeed the future of the SSSI is likely to be enhanced as a result of the proposal. This was the clear and unambiguous opinion of Dr Humphries, who has probably more experience of the impact of development upon SSSIs than any other consultant.
- 7.85 The case against the proposal in terms of SSSI falls into the following categories:
- Potential to reduce or remove grazing as a result of the reduction in overall pasture.
 - Potential for harmful impacts of human and pet activity.
- 7.86 There is a consensus that a cattle based enterprise on the application site is essential for the maintenance of the interests for which the site has been notified. At present the clear evidence is to the effect that the cattle enterprise at the site is unlikely to be viable for the long term. Despite CCW's stance, there is already evidence of undergrazing at parts of the site [Doc CCW10 and Doc WS 18]. Dr Humphries' evidence that CCW is unable to finance fencing on the site at present casts doubt on whether it can assure the future of the SSSI if this development does not take place.

7.87 The proposal can and would secure a long-term underwriting of an appropriate grazing regime at the site. It would do so in a far more secure and certain way than might be achievable by the service of management notices which are subject to rights of appeal as to reasonableness and can only relate to the SSSI itself as opposed to a much wider retained area. This was accepted and welcomed by Ms Barter. This long term underwriting of the cattle enterprise on the SSSI and other retained land would also assist in securing the site from threats associated with a higher density of residential development in the vicinity.

7.88 SSSIs of this nature are often close to significant human populations. This is the case here at present. Ms Barter correctly accepted that ultimately the issues of fencing, trespass and pets were management matters which could all potentially be secured for the long term through an appropriate section 106 obligation.

Fungi

7.89 Care should be taken not to over-exaggerate the importance of the site as a whole in these terms in the absence of a meaningful comparative database and long-term assessments of the site. The risks of essaying any sort of comparative assessment in the present climate are made clear in the CCW documents themselves [Docs CCW38 p4 and CCW40 p28].

7.90 The suggestion that more of the site is imminently to be protected by a SSSI has not been borne out in practice. Further, distribution of the relevant fungi groups across the site should be borne in mind. An examination of the representative fungi groups present shows that the 4 areas within the existing SSSI contain a significantly representative assemblage of the Wax Cap population by themselves [Doc MV 6E].

7.91 The grazing regime which is favourable to the features of interest in the SSSI, rhes pasture and the like are also favourable to the emergence of the wax-caps. This is accepted by Mr Woods for CCW. As set out above, the future of the grazing regime is in grave doubt over the whole site. With the proposed development, however, the future of grazing over the SSSI and other parts of the site can be secured, to the ultimate advantage of the fungi.

7.92 There will be an impact of the proposal on the assemblages of fungi. This falls to be weighed against the proposal in the planning balance and against the economic and other benefits which the proposal will bring.

Great Crested Newts

7.93 There are essentially two issues in relation to great crested newts:

- Is there in existence one metapopulation across the site at present?
- Are the mitigation measures identified sufficient to maintain the favourable conservation status of the species?

7.94 CCW assert that there is one metapopulation at the site which will be split and dislocated by the proposal. There is no evidence to support this assertion, which on the facts is inherently improbable:

- There is no evidence of breeding/genetic exchange across the ponds in the east and west.
- The potential for such interchange is limited and theoretical only. Pond 11 which would be the east-west "linking" pond is marginal as a habitat in any event and is at the utmost theoretical range of great crested newt travel.
- Pond 15 has been the subject of no records at all since 1997 and was only included as a matter of precaution by Dr Humphries.

The evidence of Dr Humphries on this issue should be preferred. There is no likelihood of one metapopulation being split or dislocated by the proposal.

7.95 There can be no doubt that the proposal would maintain the species at favourable conservation status. Indeed the significant enhancement of the aquatic environments associated with the proposal would significantly enhance the status of the newts on site.

7.96 The existing populations on the site are sparse. Given the ample appropriate terrestrial habitat, there is common ground that the existing limiting factor is the absence of aquatic habitat. Even the existing aquatic habitat is of poor quality, being largely steep-sided with shallow and unreliable water levels.

7.97 As to the compensatory aquatic and other land based mitigation, that which is proposed is more than sufficient to maintain the favourable conservation status of the great crested newt. Thus:

- For the 3 ponds lost (one of which is pond 15, with no newt record since 1997) there will be 10 replacements.
- The estimated area of aquatic environment loss of 665sqm would be replaced by 3,500sqm of hugely superior environment.
- An overall loss of 6.7ha of habitat is to be replaced by around 13ha of most useable, aquatic-related terrestrial habitat.

7.98 The case made against the applicant's mitigation package was established upon scrutiny to be based entirely upon an alleged "guideline" new habitat range buffer requirement of 250m. This has no status as a policy or other document and could not be identified in any CCW documents. Moreover, it flatly contradicts the advice contained within CCW's own guidance note specifically produced in conjunction with others to guide mitigation and decision makers in this regard [Doc CCW51]. When this last advice is properly applied to the circumstances of the site, the provision for newts is shown to be a very significant enhancement over existing conditions.

Bats

7.99 CCW accepts that there is very limited evidence of bat roosting on the site. Earlier concerns about the nature and scale of the investigatory work, which has been exhaustive, have been addressed. The primary value of the site for bats therefore is its foraging value.

7.100 The proposal allows for the opportunity to significantly enhance the value of the site for bats by increasing the potential of the site for roosting. This is a significant benefit of the proposal in ecological terms. The carrying capacity of the site would be increased. This was accepted by CCW.

7.101 There will be an inevitable loss of some foraging habitat. The issue is whether sufficient is maintained and can be properly managed. Dr Humphries' clear exposition of the way in which large areas of existing foraging and commuting routes could be maintained by areas of landscape connectivity is commended to the decision-maker [Doc MV 6 para 5.6.2 et seq]. The existing and additional ponds are obvious foraging venues and could be significantly enhanced through a SUDS scheme.

Retail impact

7.102 There is a retail need for the proposal. As a matter of fact this need can be identified in quantitative terms through an assessment of the available expenditure to the catchment in the conventional sense [Doc MV 9].

- 7.103 An assessment of the need in this way would be however to miss the whole point of the policy imperative for development-led regeneration of the Merthyr and Upper Valleys area. Attracting high quality retail development to the area is seen as an essential limb of the transforming strategic policy for this part of the Valleys. In order for the strategy to be effective in regeneration terms and in terms of counterbalancing the attractions of the coastal towns, the scale of the retail is required to be substantial.
- 7.104 To examine the consequences of the proposal without this basic element of context in mind would be entirely inappropriate. Retail is an important part of a strategic development-led regeneration because it allows for early successes to register and for momentum to be established. National retailers expressing confidence in Merthyr sends an inevitable signal of change of perception. Need in the present case is therefore policy driven in a real sense.
- 7.105 There is no sequentially preferable town centre site upon which such need can be met. Indeed the Council has undertaken sequential assessments in relation to recent much less strategic retail proposals, and found no suitable available or viable town centre sites. Nor are there other sites upon which the retail element of the proposal can more suitably be located. None have been realistically identified.
- 7.106 The proposal is meant to have an impact. But the nature and scale of the retail offer is meant to compete with Cardiff and to a lesser degree Newport, whose own offer has in turn of course already had its effect on the much smaller lesser order valleys towns.
- 7.107 In this context concerns about Bargoed, for example, expressed but not substantiated by any rational analytical evidence by Caerphilly Borough Council, are illusory. It is inconceivable that the scale and type of retailing which is proposed at this location will have any meaningful impact upon centres like Bargoed, whose retail function is local. It will not be in competition with the retail proposed at the application site.

Employment impact

- 7.108 The proposal will result in the redevelopment of a strategic employment site for other beneficial purposes. However, the strategic employment site has been sitting vacant for years. Professor Munday was clear that he thought that in the present environment its potential to accommodate strategic inward investment was extremely poor. History supports that opinion.
- 7.109 Although that part of the application site will be lost for employment development, the proposal as a whole will create a strategically significant employment opportunity. This opportunity will reflect not only the employment generated by the site directly in business industry and retail jobs, but also the number of indirect jobs created across the valleys communities indirectly and during the construction phases [Doc MV 2].
- 7.110 In these circumstances the loss of the employment site can be considered to be consistent with the aims and objectives of the employment policy and the overall strategic direction for Merthyr.

Transportation impacts and sustainability

- 7.111 The transportation issue for the site is whether it can be made sufficiently sustainable and whether it affords a realistic choice to those who wish to visit the site by non-car modes. To this extent, the transport package agreed as part of the section 106 obligation is significant. The linking of the site to the town centre by an extremely frequent shuttle bus would provide a real and realistic alternative to car use.

- 7.112 The pedestrian and cycle links to be constructed would be clear, legible, safe and usable [Doc CD6.2].
- 7.113 The highway works associated with the proposal would make the town centre a much more usable proposition. Such works would offset the development's traffic effects and also considerably enhance the usability of the town centre network as a whole.
- 7.114 The Welsh Assembly Government's Transport Division is satisfied that the proposal would not prejudice the key north-south and Heads of the Valleys routes on which Merthyr is positioned [Doc MV 12].
- 7.115 Countryside access via the site, which at present is largely by trespass, would be enhanced. The draft CCW exclusion to the largest parts of the open access lands on safety grounds [Doc CCW69] is instructive and consistent with the case advanced by the applicant.

Proposition 5: The need for regeneration is overwhelming and pressing - refusal or delay would cause harm

- 7.116 The Valleys initiative is described by the Welsh Assembly Government itself as a once in a generation opportunity. Its aim is completely to transform the image of the Heads of the Valleys. It is important not to underestimate the importance of image and perception to economic development.
- 7.117 Merthyr has been identified properly as the driver, the hub of the Valleys initiative. Its development is to take the lead, early in the life of the new strategic policy. It is meant to provide the critical mass and the momentum upon which the balance of the policy depends.
- 7.118 This proposal represents the biggest potential investment in Merthyr Tydfil for probably half a century. The impact of a refusal on other potential investors should not be underestimated. Professor Munday was clear that the investment community as a whole would be likely to judge the potential for development in the Valleys by reference to the fate of schemes such as this through the planning process. This perception of momentum will be created as much by the grant of permission as by the commencement of development. People will know that something important is happening in Merthyr.
- 7.119 It is very tempting to propose that development of this scale should be prosecuted through the development plan process and that these applications are thus premature. This proposition is not accepted. The local development plan has not yet reached first base. Even on the most optimistic of estimates, it will not be in place until 2009/10. It is almost certainly likely to be later. If private investment in the Valleys is to take place at the scale and speed required by the policy, the market needs to be given the confidence now that opportunities are not to be turned away.
- 7.120 Further, in policy terms, there can be no justification for a prematurity refusal. PPW (paras 3.5.1-3) makes it clear that a refusal on prematurity grounds only properly arises where development plans are under review and proposals have been issued for consultation. Here we are nowhere near even pre-consultation issues papers stage. Indeed, if anything there is something of a reverse prematurity argument which might apply in the circumstances of this case. The application falls to be determined on its merits against the background of the existing spatial plan and adopted development plan.
- 7.121 The WSP makes it clear that there is a new and urgent strategic direction for Merthyr which must be fulfilled. Even if the specific merits of these particular proposals are not accepted by

the decision maker, care must be taken to ensure that the site's potential as the only one of significance upon which the vision might be realised is not inappropriately blighted.

Overall Conclusion

- 7.122 This has been a long and difficult inquiry. The truth is that development of this scale and complexity has been absent from Merthyr for such a long time that, on all sides, neither the procedural nor the substantive preparation or processing of these applications has been perfect. A practised culture of submitting and dealing with large infrastructure projects of this nature does not exist. This is a case which continues to have its rough edges.
- 7.123 However, the Assembly Government should look beyond these to the substance of the case and its congruity with strategic policy. Something significant is needed in Merthyr if the shameful levels of deprivation are to be addressed. Large scale development is an essential part of the regeneration strategy if anything is to change.
- 7.124 This proposal meets the strategic requirements and does so in a way which, with the benefit of the terms of the section 106 agreement, allows the impact of the proposal to be kept within acceptable bounds. On the basis of the foregoing, the Assembly Government is urged to grant permission for these proposals.

8. THE CASE FOR MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

The main points of the case put for the Council are as follows:

- 8.1 The Council agree with and support the applicant's case in relation to the merits of the proposals. The Council chose not to duplicate evidence before the inquiry by presenting technical evidence of its own in relation to the various issues raised by those objecting to the development. Rather, their evidence focuses on explaining the reasons why it supports the development proposed. Consequently, their case does not address in detail the evidence submitted on behalf of the main objectors, except where that evidence relates to the case which the Council presented at the inquiry.
 - 8.2 Pursuant to its resolutions in relation to the submitted phase 1 and phase 2 applications, the Council have conducted detailed discussions with the applicants over the terms of the section 106 agreement. The Council's case and support for the proposals is on the basis of the completed obligation, to which it is a signatory, and the Assembly Government is invited to proceed on this basis.
 - 8.3 The Council concur with the applicant that the phase 1 and phase 2 developments should be treated as being linked, with phase 2 being dependent on the successful completion of phase 1. Whilst as a matter of procedure Members considered each of the phases separately and resolved to support each of the phases, they were correctly advised that the applications were "complementary" and "mutually dependent" [Doc CD5.1 p14 para 3.2 & Doc CD6.6 p4 para 1.4] and were made aware of the general nature of the phase 2 proposals during their consideration of the phase 1 scheme.
 - 8.4 Further, the section 106 agreement has been negotiated and drafted on the basis that the two phases are inter-linked. Consequently, the Assembly Government is invited to consider both schemes together. This approach has the following consequences:
 - It requires a legal mechanism that links the two schemes. The revised conditions suggested by the applicant will enable this linkage, as will the completed section 106 agreement.
 - It entitles the Assembly Government to take the following approach, if necessary: if it considers that the benefits of phase 1 alone are insufficient to outweigh the adverse planning consequences of phase 1, it can take into account the benefits of phase 2 in deciding whether the benefits of the scheme overall outweigh the harm overall.
- The Council consider that this approach is a much more realistic one and has the clear virtue of commonsense.
- 8.5 In the event that the Assembly Government considers it more appropriate to consider the two applications separately, the Council requests that it be informed so that (i) written submissions can be made on the consequences of such an approach; and (ii) that the section 106 agreement can be re-drafted, if necessary.
 - 8.6 Some criticism has been levelled at the Council regarding the way in which Members considered the applications. This is unjustified. When considering each application, Members had the benefit of an extremely thorough Officer's Report, which set out the relevant local and national policies as well as responses from both statutory and non-statutory consultees.
 - 8.7 None of the objecting parties has claimed that either of the officers' reports was materially deficient or failed accurately to represent their concerns about the schemes. Indeed, each of the objectors relies on the recommendations of the officers' reports as supporting their cases

and has applauded the content of the reports. Whatever view one takes of the merits of the applications, it is clear that Members were fully apprised of the relevant policy background, properly understood the nature of the applications being made and were made patently aware of arguments against the development.

- 8.8 It is also important to note that objectors to the phase 2 application were given the opportunity to address Members at the meeting on 26 September 2005 [Doc CD6.10]. Mr. Paul Brown addressed the Council meeting on 19 December 2002 where phase 1 was discussed [Doc CD5.2].
- 8.9 Members were also advised that: *"Any planning determination inevitably involves an element of judgement. Planning application must be decided upon its particular planning merits [sic]. Therefore a balance needs to be struck between the substantial environmental effects and potential benefits which such a scheme presents."* [Doc CD5.1 p81 para 8.1]. The report on the phase 2 application referred to the status of the development plan in relation to determination of planning applications and to the other material considerations which also needed to be considered [Doc CD6.6 p93 para 9.1 and p 95 para 9.2].
- 8.10 The above extract encapsulates the central and crucial issue which the Assembly Government is required to determine: do the socio-economic and other benefits of these applications outweigh the potential harm which would flow from granting planning permission? It is also important to note that no objector has characterised the issue in a way that is significantly different, nor has any objector suggested that the socio-economic benefits which persuaded Members to support the applications are not capable of comprising relevant material considerations.
- 8.11 In any case, Cllr Jones was clear in cross-examination that he explained to Members the importance of the decision that they were to make on phase 2 and urged them in the strongest terms to read the detailed officers' report.
- 8.12 It is also clear from the evidence of Cllr Jones that Members carried out this important balancing exercise: *"The all important question for the Council was – do the social and economic benefits associated with the Merthyr Village proposals, on balance, outweigh the concerns of those objecting to the proposal contained within the report?"* [Doc MT 2 p5]. Cllr Jones also confirmed in evidence that Members carefully assessed the pros and cons of the proposal.
- 8.13 In circumstances where Members have been properly advised as to the issues and have carried out the proper balancing exercise, it is submitted that considerable weight should be given to the Council's support for both applications.
- 8.14 The Council's presence at the inquiry was to explain Members' conditional support for both applications. It would not have been an efficient use of inquiry time for the Council to lead technical evidence in support of the applications. In this regard, the local planning authority is content to rely on the detailed and robust evidence led on behalf of the applicants.
- 8.15 It is important to remember that neither Cllr Jones nor Mr Neill is a professional planning witness. The purpose of their evidence was to show why the Council and its Members had supported both applications in the light of their own extensive local knowledge and informed by officers of the Council. In particular, their evidence sought to address what it was about the applications that persuaded Members to reject the officers' recommendations; it was not intended to address each and every point both for and against the applications. In this regard,

the Assembly Government has the benefit of the very detailed officer reports which set out both the advantages and disadvantages of both phase 1 and phase 2.

- 8.16 The Council's reasons for supporting each of the applications are set out in the Minutes of the Meetings held on 19 December 2002 [Doc CD5.2] and 26 September 2005 [Doc CD6.10] and are amplified by the evidence of Mr Neill and Cllr Jones [Docs MT 1 and MT 2].
- 8.17 The first reason for supporting the phase 1 application derived from a consideration of the status of the land in Development Plan terms: "*That the fact that more than 58% of the total application site was designated as derelict land and the proposed development would remove the majority*". This is an accurate representation of the policy status of the majority of the site [Doc CD5.2 pp 60, 64, 81]. Both the structure plan and the local plan permit the restoration of areas designated as derelict, provided that features of ecological and historical interest are retained. Indeed, through their third reason for supporting the phase 1 application Members recognised that the ecological and historical interest of the site should be protected.
- 8.18 Moreover, the after-use of the derelict land was relevant to Members' deliberations. Reason 2 focused on the after-use of the application site and its potential to help secure the economic regeneration of the site.
- 8.19 Members were also satisfied that safeguards could be built into any planning permission by way of conditions, in order to protect much of the ecological and historical interest of the site [Docs CD5.3 & CD5.4]. Indeed, the Council's position now is that the conditions put forward to the inquiry, together with the section 106 agreement will provide significant protection to interests of acknowledged importance.
- 8.20 Consequently, even if one were to treat phase 1 as a discrete application and were to exclude any reference to the more detailed post restoration proposals of phase 2, planning permission should be granted for phase 1.
- 8.21 The five reasons for Members supporting phase 2 are set out in the Minutes of the Full Council Meeting on 26 September 2005 [Doc CD6.10]. The reasons relied on by Members were all relevant to land use planning. Indeed, none of the objectors has sought to argue to the contrary. The key theme running through the Council's reasons for supporting phase 2 (and one of the reasons for supporting phase 1) is the significant socio-economic benefit of the proposed development.
- 8.22 It is strongly submitted that these reasons, both singly and cumulatively, represent powerful material considerations in favour of the phase 2 application.
- 8.23 In understanding the Members' various resolutions to support both phase 1 and phase 2, it is important not only to appreciate the benefits which will flow from development of the Merthyr Village site, but also the parlous socio-economic state in which the County Borough currently finds itself, despite the previous best efforts of the Local Plan (adopted in May 1999).
- 8.24 Professor Munday's assessment [Doc MV 2] of the current socio-economic situation in Merthyr Tydfil is entirely consistent with the summary set out in the Statement of Support of Mr Neill, the Council's Chief Executive [Doc MT 1] and echoes the concerns which Cllr Jones expresses in his proof [Doc MT 2]. According to Mr Neill: "*The trajectories of all Merthyr Tydfil's major socio-economic indicators have shown a deepening, widening, chronic series of problems, placing Merthyr Tydfil's problems as the most acute in Wales, and arguably in all UK*" [Doc MT 1 p1]. This unchallenged assessment of the current situation paints a very sad picture of the position in which the County Borough finds itself

and is one which calls out for a radical approach which will help break the vicious cycle of long-term decline [Doc MT 1 p2]. Members hold the view very strongly that the Merthyr Village scheme presents such a solution.

- 8.25 The Council consider that granting permission for a scheme that assists in Merthyr's recovery is entirely consistent with a variety of up to date policy initiatives (dealt with in more detail by the applicants), including the Council's "Vision", a corporate initiative ratified in 2003, which states:
- 8.26 *"By 2010 Merthyr Tydfil will be a safe, healthy and exciting place to live and visit. Our ambition is to be a sustainable, confident County Borough, which recognises and promotes equality of opportunity and where people want to achieve in all aspects of their life through work, leisure and learning. Our vision is to be recognised as a vibrant, thriving regional centre for the Valleys."*
- 8.27 This Vision, particularly the last sentence, is entirely consistent with the Wales Spatial Plan [Doc CD1.1] and "*Heads - We Win...*" [Doc CD1.27] in its desire to regenerate Merthyr Tydfil. Indeed, "*Heads - We Win...*" contains the following relevant passage, which illustrates the consistency of the Council's Vision with national policy: "*Merthyr Tydfil and Ebbw Vale, the two most significant towns within the Heads of the Valleys, both have real potential to grow and drive the local economy. Alongside a number of other accessible local centres – these towns have the opportunity to become attractive and affordable places for people from across South East Wales to live, work and visit. By doing this they could help to stem the tide of population loss and attract major investment to the area.*" (p.10).
- 8.28 Members consider that the applicants' scheme fits extremely well into its Vision and is exactly the type of development which could assist the Assembly Government in meeting some of the aims set out in "*Heads - We Win...*". The key advantage, particularly of the phase 2 application, will be the significant socio-economic benefits that will flow from the introduction of housing, leisure and retail development [Doc MT 2, p4].
- 8.29 The socio-economic benefits of both applications are well set out in the proof of Professor Munday [Doc MV 2]. His assessment of the social and economic benefits which will flow from the development was unchallenged by the main objectors, CCW and Cadw.
- 8.30 A scheme which will bring the socio-economic benefits outlined by Professor Munday, as well as a scheme that will undoubtedly bring the benefits outlined in Members' reasons for supporting phase 2, is entirely compliant with the Council's Vision and with the Assembly Governments most up to date and specific guidance relating to this region. For these reasons, the socio-economic benefits of the proposed scheme represent a compelling argument in favour of permitting development.
- 8.31 The Council's support for the schemes has been conditional upon appropriate conditions being imposed and upon a satisfactory section 106 agreement [Docs CD6.11-6.13]. Members have clearly recognised that both applications will have important planning consequences which should be mitigated as far as the planning system would allow. It is for this reason that officers have sought to negotiate a section 106 agreement and sought to agree conditions which offset the consequences of the development as far as possible. It is the Council's view that the section 106 agreement will compensate for a significant number of the potentially adverse planning consequences.

8.32 Taking the socio-economic benefits in conjunction with the section 106 agreement and conditions, the Council submit that the planning balance comes down clearly in favour of granting planning permission.

8.33 For all of the above reasons, the Council consider that permission should be granted for phase 1 and phase 2, subject to conditions and to the section 106 obligation.

9. THE CASE FOR CADW

The main points of the case put for Cadw are as follows:

- 9.1 The two planning applications were first submitted in 2002. Full ESs were produced at the request of the Welsh Assembly Government in 2004. In response to requests for additional information and to help mitigate their proposals, Merthyr Village produced new information and made significant modifications to both phase 1 and phase 2 between February and September 2005. A report identifying the extent of pressing safety works to the spoil tips was circulated to inquiry participants in late December 2005. Finally during the course of the inquiry the applicant has made a number of suggestions over how the impact of the phase 1 and phase 2 developments on the historic environment can be mitigated.
- 9.2 It is important to identify the final extent and likely impact of the proposals before the inquiry. The effects will be cumulative. Any emergency works on the spoil tips and mine workings may have to predate the final determination of the planning application by the National Assembly for Wales. The land reclamation works of phase 1 are the subject of a full planning application and will lead to the permanent loss or burial of a substantial proportion of the application site and its historic landscape. Phase 2 is an outline planning application whose development area would cover about twice the area affected by the phase 1 earthworks. Whilst the basic infrastructure is fixed by the outline application, the pattern and content of each area of the site will be the subject of a reserved matters application.
- 9.3 A number of the applicant's witnesses have said that the phase 1 works would not proceed unless outline planning permission is granted for phase 2, and the applicant has sought to cement that link through the section 106 agreement. Nevertheless each application still needs to be assessed on its merits to look at these two phases of work and the preliminary emergency works in more detail.

Emergency Works

- 9.4 Cadw accepts that Merthyr Village Ltd were unaware of their responsibilities for the condition of the spoil tips on their land until November 2005. This was despite employing mining engineers as consultants in preparing the earlier Environmental Statements, and the contacts they have had with the Coal Authority. Up to November 2005 no significant concerns about the condition of the spoil tips had been expressed (ES Phase 1, Revision B, July 2004 para 3.6.1). The spoil tips are also the subject of periodic visual inspection by Merthyr Tydfil CBC's engineers and they have not reported signs of rapid deterioration. As a result there has been no programme of monitoring of the conditions of the spoil tips so no data is available on changes to their condition and water content.
- 9.5 Nevertheless Cadw accepts that significant new dangers have recently appeared. Those associated with collapses of mine workings will be dealt with by the Coal Authority with whom Cadw has worked regularly in the past. Those associated with the spoil tips will be Merthyr Village Ltd's responsibility. Mr Crook in his evidence asserted that "As in the case of ecology and archaeology, the effects of uncontrolled and unmitigated emergency works to the tips or other parts of the site cannot be ignored" [Doc MV 1 para 7.15]
- 9.6 However in his evidence Mr Bradbury gave a much more measured response to the immediacy of the emergency works. [Docs MV3 and 3A]. He believed it would be possible to agree with the statutory agencies how to minimise the environmental impact of any safety works and build in some mitigation measures. The potential impacts are considered in more

detail later. Some emergency works will have to proceed before the phase 1 application is finally determined but the extent of these works remains undetermined. It has recently been confirmed that these works will be subject to a separate planning application.

Phase 1

- 9.7 When submitted in 2002 this application was described as: "Reclamation and Landscape Restoration of 83 ha out of 224 ha of derelict and despoiled land, including tip reprofiling and coal recovery by washing from selected spoil tips"
- 9.8 As amended in September 2005, parts of the Cwmdru spoil tips were omitted as was the adjacent washery and the main haul road was redirected along a more environmentally acceptable route. Some aspects remain to be fully detailed including the new drainage scheme and its attenuation ponds described by Mr Batt [Doc MV4, section 3] and the subsidiary haul roads and contractor's compound. Mr Bradbury estimated that the Category 1 Emergency works represented about 35% of the phase 1 earthworks, though some emergency works lie outside the phase 1 boundaries.
- 9.9 The diagram illustrating the layout of the cut and fill operations shows straight multi-angular boundaries and arguments were presented by the applicant's witnesses that these boundaries could be further refined to retain key archaeological sites. Whether this can be achieved is unproven. Cadw's experience of working with large earthmoving machines is that they produce curving edges and profiles to meet operational and slope stability requirements. The design of the earthmoving operations may have to be changed if buried mine workings are encountered.
- 9.10 At the time of the inquiry, the phase 1 application was subject to planning conditions approved by Merthyr Tydfil CBC in 2003. These have now been superseded by the planning conditions placed before this inquiry.

Phase 2

- 9.11 This application is for outline planning permission. The nature of the development is described within the planning application and is illustrated by an indicative Masterplan. This has evolved from the original application submitted in 2002, through that included in the Environmental Statement of 2004, to the current version dated March 2005, which was submitted to the Welsh Assembly Government's Planning Division. This current version has seen the exclusion of development from the SSSI, retention of the western part of the application site as open access land, and some reduction of the areas identified for housing.
- 9.12 However some elements may be considered as fixed. These include the access from the Rhydycar roundabout, the position of the second access near Upper Abercanaid and the main spine road, which forks to give access to the northern and western parts of the site. In addition, the stadium and practice ground have a fixed shape and are to be placed at the southern end of the development. The main business uses need to be close to the Rhydycar access. The retail and leisure uses have identified floor areas, though these can be disposed in different plan forms. These types of uses require extensive areas of car parking close at hand. There is more flexibility in the disposition of the housing units and their service roads within the development boundary.
- 9.13 The section 106 agreement identifies other facilities that will have to be included in the development. These include two primary schools, outdoor playing spaces and playing fields (totalling 10.2ha), a library, and a health centre. These facilities will have substantial

footprints on large levelled sites, which will need to be accommodated within the current indicative Masterplan.

- 9.14 Mr Roberts in his evidence [Docs MV7 and 7A] summarised the basic land divisions within the application site. Of the 224ha, 45ha would remain as SSSI or open access land, leaving 179ha within the development boundary. This area would contain 60ha of open space of which only 20-25ha would retain its unmodified landform, i.e. where archaeological sites and historic landscape features could be preserved and managed in their present form.

Summary of Cadw's position

- 9.15 Cadw is the division of the Welsh Assembly Government responsible for promoting the conservation and appreciation of Wales's historic environment. Its evidence is without prejudice to the Assembly's final determination of these planning applications. In presenting its evidence Cadw is required to limit itself to identifying the historical and archaeological importance of the remains within the application site and to assessing the impact of different aspects of the development, in relation to national and local policies and guidance. It is for the decision-maker to weigh the balance of the benefits and disbenefits of the applications before the inquiry.
- 9.16 Cadw's evidence shows the relationship of the application site to the Cyfarthfa Ironworks. It formed about one eighth of the land leased by the ironworks, to provide the minerals it needed. The position of the Cyfarthfa Ironworks in the development of Merthyr Tydfil has been described, showing how the town, its ironworks and their associated extractive landscape is now contained within the registered area of the Merthyr Tydfil Landscape of Outstanding Historic Interest. The importance of the application site itself and the Cyfarthfa lease area more generally stands comparison with the equivalent areas of the extractive landscape within the Blaenavon World Heritage Site [Docs CADW 7,8 & 18].
- 9.17 Cadw's witnesses identified the different components of the extractive landscape found within the application site. This area provided three of the four key raw materials needed by the Cyfarthfa Ironworks; ironstone, coal and fireclay. Originally derived from surface workings, extraction continued using adits, then shafts and finally deep mines to supply the ever-increasing demands from the foundation of the ironworks in the 1760s, through the period when it was the largest in the world and into the mid 19th century when Merthyr's production as a whole was at its zenith. Associated with the extraction sites and their spoil tips was a network of transport and water systems. These also reflect technological innovations as demand and production increased. Particularly important within the application site is the succession of transport systems beginning with one of the first British canals, then early tram roads, primitive railways and finally the use of broad gauge locomotives on Brunel's Vale of Neath Railway. The other important components of the landscape are the reservoirs and leats, which operated the water balance mechanisms in the early mines.
- 9.18 This great wealth of archaeological sites and historic landscape features cannot be described as a multitude of points on a large-scale map (as for example in ES Phase 1, July 2004 fig 21). Whilst some sites are compact, many others cover extensive areas, such as the spoil tips, or run for considerable lengths such as the tramways, railways and watercourses. The other significant drawback with point archaeological data is that it does not identify or describe the connections and interactions within this extensive, extractive industrial landscape. It was these deficiencies in the earlier versions of the Environmental Statement for these developments that led Cadw to commission the *West Merthyr Historic Landscape Study* from

Archaeological Investigations Ltd [Doc CD2.12]. Based on historic map regression, the study of air photos and field visits, this study aimed to identify the development of the extractive landscape within a pre-existing agricultural area. It then traced its abandonment after 1875, its partial overlaying by deep mining and its survival into recent times. This study has emphasised the connections and interactions between the host of industrial archaeological sites. It led to the definition of four zones of articulation and coherence. These zones have brought a new level of understanding of the historical importance of the application site and have been widely used by the parties at this inquiry. They have provided the basis for assessing the impact of the phase 1 and phase 2 on the historic environment and assisted in the development of proposed mitigatory measures by the applicant. The study has formed a bridge between the lists of archaeological sites at one end and the historic landscape character areas, which have formed the basis of the ASIDOHL process, at the other.

- 9.19 The call-in letter identified three main planning issues on which the National Assembly for Wales wished to be informed. Cadw in its evidence has tried to limit itself to the consideration of these issues with regard to the historic environment. It has discussed what it believes to be the relevant national and local planning policies. The impacts of the different phases of the development on the historic environment have been assessed. In cross-examination the proposed and evolving mitigation measures offered by the applicant were considered and the potential effectiveness of the section 106 agreement and planning conditions were debated. These impacts and their potential mitigation need to be considered in more detail.
- 9.20 The responsibility for carrying out emergency works is divided between the Coal Authority and Merthyr Village Ltd. The emergency works considered necessary by Merthyr Village Ltd are described and illustrated in [Doc MV3A appendix 5]. They are divided into categories 1, 2 and 3, based on the assessed level of hazard or danger. Category 1 includes areas where excavation of the tip material, reprofiling of slope batters, drainage and the diversion of streams and issues are required. As illustrated on drawing E561/307/003, the Category 1 areas cover up to 11ha. Mr Bradbury confirmed that an additional area of about 11ha would be required to receive excavated spoil. (These areas have recently been refined in drawing E561-307-006) This latter area could be subject to agreement to minimise the environmental loss, though proximity to the excavation works would reduce the costs. Category 2 areas are identified as requiring monitoring and further assessment. In these areas, no earthmoving might be necessary if phase 1 is granted planning permission.
- 9.21 The extent of the Category 1 works is largely included within the boundaries of the phase 1 earthworks, as revised in September 2005, but with some important exceptions. These include areas to the north and west of Nant Llwynyreos in the Cwm Glo area, which would remove lengths of the Cwm Glo tramway and parts of the Cwmdu spoil tips, north of the Cwmdu incline.
- 9.22 The spoil tips to be affected by the emergency works should be recorded before earthworks are to proceed. Particular examples are the Cwmglo North and Coedcae tips, whose flat tops retain the pattern of tramways used in its formation. Works to pull back the spoil tips alongside the Nant Llwynyreos will not only affect them but also any structures associated with the canalization of the stream. In addition lengths of the Cwm Glo Pit tramway, Cwm Glo incline, and Cwm Glo track will be lost. The final area of concern is the drainage of the area east of the Cyfarthfa Reservoir, which includes the Cwm Pit railway and the line of the Cyfarthfa Canal.

- 9.23 The emergency works do not form part of the planning applications before the inquiry. However the applicant has presented them as some justification for undertaking the more extensive earthworks of phase 1. It has been asserted that these safety works would be undertaken in a more systematic way, allowing far more concerted and integrated environmental management if planning consent were granted.
- 9.24 The original application identified that 83ha of the 224ha site area would be affected in phase 1. As already described this has subsequently been modified as at September 2005, though a number of ancillary works have not been fully described or environmentally assessed.
- 9.25 The archaeological impact of the original phase 1 development is considered in the ES Phase 1, Revision B, July 2004 para 5.9, table 5.4, fig 21 and appendix F3. Archaeological sites were categorised as A (national importance), B (regional importance), C (local importance), D (low importance) or, if uncertain put in U (unknown). Table 5.4 shows that 148 individual sites and 3 linear sites will suffer severe or major effects from the earthworks of these 12 were in Category A and six in Category B. Subsequent modifications to the phase 1 works will have reduced these numbers, though the impact of the ancillary works would need to be re-assessed.
- 9.26 An alternative, and in Cadw's opinion, more successful way of assessing the impact of phase 1 is to mentally overlay the plan of the earthworks on the four zones of articulation and coherence published in the *West Merthyr Historic Landscape Study*. This was attempted by Mr Oakey in his evidence (Cadw para 2.26), based on the July 2004 scheme. He estimated that 60% of Zone A, 70% of Zone B and 60% of Zone C would be lost or buried by these works. There would be a limited impact on Zone D.
- 9.27 The planning conditions for phase 1 would go some way to mitigate the loss of archaeological sites through recording. However, during the course of the inquiry, the applicant submitted new figures showing additional mitigation. *Key Sites – Phase 1* [Doc MV 5B (iii)], attempts to show how individual sites of regional or national importance could be preserved adjacent to or, by minor modifications, within the phase 1 earthworks. *Extant and non-extant features – Phase 1* [Doc MV 5B (i)] illustrated a number of the key transport routes and components of the water management system in relation to the layout of the earthworks. In cross-examination of Mr Oakey, Mr Harris tried to demonstrate that it should be possible to retain parts of these linear features intact, or retain some of their alignments in areas subject to fill, for later inclusion in phase 2. Whilst this is a welcome, if belated, move by the applicant, the practicality of achieving these objectives in a large-scale earthmoving operation remains unproven. It is also in conflict with the phase 1 surface drainage proposals [Doc MV 4A fig ES10]. Even if some of this mitigation could be achieved, Cadw believes that the loss of numbers of important archaeological sites, lengths of linear transport and water features, and substantial areas of three of the zones of articulation and coherence, would remain unacceptable.
- 9.28 The assessment of the impact of the phase 2 development is more difficult than in phase 1, as no definitive list of archaeological sites within the development boundary has been provided by the applicant. A list of archaeological sites and their categorisation was prepared by GGAT as appendix F to the Phase 1 ES submitted in March 2002. However later consultants employed by the applicant do not seem to have made use of this data.
- 9.29 The first significant attempt to present an archaeological mitigation strategy for phase 2 was not in the ES, but in the presentation of Mr Wain's evidence [Doc MV 5], and figures circulated at the inquiry. These appendices underwent some refinement and were re-presented

during Mr Oakey's cross-examination as *Figure 1a: extant and non-extant features – Phase 2* and *Figure 2a: Key Sites – Phase 2* [Doc MV 5B (ii) & (iv)]. A final illustration of potential modification was presented late in the inquiry as Option 2 Proposed Site Plan (Drawing no 013045-10-23 P4) [Doc MV 14].

9.30 Cadw accepts that it will be possible to retain a number of key sites, if they have survived the emergency works and phase 1 earthworks within the development boundary of phase 2. However given the density of the development, these sites would inevitably become isolated. The Environmental Management Plan proposed in the section 106 agreement would provide a mechanism for maintaining and interpreting these individual sites. Nevertheless, the development would inevitably divorce these sites from their contexts, which is so much a part of the current historic landscape of the application site. It would also radically alter the setting of these sites. An indication of what might happen can be seen on the latest version of the Masterplan, which shows the scheduled sections of the Cyfarthfa Canal (GM467) within the car park and forecourt of the retail development. For a comparative example of what retaining a length of canal in this way might look like, comparison is drawn with the stretch of the Glamorganshire Canal in front of Chapel Row, Georgetown, Merthyr Tydfil. Here, though much of its original setting does survive, the canal appears as a lifeless, dry, concrete-lined channel.

9.31 The re-presented *Figure 1a* considers the linear historic features. It must be remembered that phase 1 will already have had a considerable effect either destroying or burying many stretches of these features. Cadw accepts there is a limited opportunity to retain some further stretches in situ, for example the northern end of the Cwm Glo/Coedcae tramroad and perhaps some lengths of the Parish Road. Other alignments could be retained by adopting their lines within the pattern of the development. However Cadw seriously doubts how much of this can be achieved given that some aspects of the phase 2 development are fixed. These include the two road accesses and the main spine road. Also some of the major components of the development are of a fixed size, the football stadium, the retail park and leisure centre with their associated car parks. The pattern of the historic linear features and alignments is densest in the south-eastern part of the application site, where these large-scale components are to be located. Cadw considers the figures submitted as appendices to Mr Wain's evidence and the Option 2 Site Plan, as 'archaeological mitigation on the hoof' and that they cannot be taken at face value. They are paper exercises, which do not necessarily reflect the topography and engineering requirements of the site. On-site inspection reveals the terraced hillside terrain, dissected by stream valleys, that forms the basic topography of the application site. Many of the linear features extend for considerable distances and are substantial constructions in their own right. Fitting the indicative Masterplan over this landscape, it is necessary to ask how these features would survive if the development were to proceed.

9.32 In Cadw's view, there remains an onus on the applicant to demonstrate how it is intended to preserve sites or their alignments in phase 2. This would only have weight if the effects of phase 1 works were identified and a revised Masterplan produced to show how these key sites and linear features could be retained not only in plan but in section, without materially altering the phase 2 application before the inquiry.

9.33 In the absence of any convincing evidence that the effects of phase 2 could be mitigated an assessment is necessary of what would be the increased direct impact. This was attempted by Mr Oakey [Doc CADW B para 2.28] and are illustrated by Doc CADW 9 appendix 9, figure 10. In addition to further losses of the industrial extractive landscape, phase 2 will also significantly affect the remains of its contemporary agricultural landscape on which it partly depended.

Relevant Planning Policies and Contexts

- 9.34 The call-in letter set out the planning background against which to consider these development proposals. In a national context, these were the policies contained in *Planning Policy Wales (March 2002)* and the supporting TAN's and circulars. In the regional and local context, the relevant policies are in the *Mid-Glamorgan (Merthyr Tydfil County Borough Council) Replacement Structure Plan 1991-2006* and the *Merthyr Tydfil Borough Local Plan 1996-2006*.
- 9.35 In terms of Cadw's remit, the national policies occur in Chapter 6 of PPW, and these are quoted at length in Cadw's evidence [Doc CADW D]. Para 6.5.1 states: "Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ."
- 9.36 There is a consensus amongst the parties that there are a number of nationally-important archaeological remains which will be directly affected by the phase 1 or phase 2 works, and in other cases their settings will be materially affected.
- 9.37 The Council's witnesses accepted that their authority embraced the principles of sustainable development promoted by the Assembly. One of the policy objectives in Planning for Sustainability is to: "help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity" (PPW 2.3.2).
- 9.38 There has been much discussion at the inquiry about the applicant and local planning authority identifying parts of the application site as derelict. The Assembly has a preference for the re-use of previously developed (brownfield) land, but it also identifies important exclusions (Planning Policy Wales, para 2.7.1 and fig 2.1). Those relevant to this inquiry are where the land contains industrial heritage and "where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings". These exceptions mean that the application site cannot be considered previously developed or derelict land.
- 9.39 As part of Cadw's evidence, Mr Maylan discussed the regional and local plan policies towards the historic environment [Doc CADW C section 3.3]. These policies include the presumption in favour of the preservation of important archaeological sites and their settings. In his opinion, both phases of the development would be contrary to these policies.
- 9.40 The applicant and the Council look to draw support for the proposed developments from two more documents published by the Assembly. These were *People, Places, Future: The Wales Spatial Plan* (November 2004) [Doc CD1.1] and "*Heads – We Win ...*" *A Strategic Framework for the Heads of the Valleys* (Consultation document, March 2005) [Doc CD1.27]. A decision will have to be made as to what weight to put on these documents in considering the two planning applications. However both documents have sustainability at their core. Sustainability is like a three-legged stool in which social, economic and environmental issues form a leg each. Remove one leg and the stool will collapse. The applicant and the Council have laid great weight on the social and economic challenges faced by Merthyr Tydfil, and how the Merthyr Village development could contribute to meeting these challenges. In Cadw's opinion, they have given insufficient weight to the environmental issues, so the development proposals cannot be described as sustainable. However the WSP recognises the importance of the environment (*pp 22, 31 and fig 13*) and "*Heads - We Win...*" recognises how the richness of its heritage helps give the Heads of the

Valleys a unique sense of pride and identity, which should be retained and built on (p 14). This balance must be considered here.

Section 106 Agreement and Planning Conditions

- 9.41 During the adjournment and at the end of the inquiry a complex section 106 agreement and separate sets of planning conditions for phases 1 and 2 have been developed [Docs 9, 11(i), 11(ii)]. Cadw has been able to have an input into these documents. The Environmental Management Plan described in the section 106 agreement has the potential to be a very sophisticated management tool especially if it is based on a modern Geographical Information System. The Archaeological Mitigation Strategy and the Landscape Masterplan would set out the principles through which the archaeological sites and historic landscape features would be protected, managed and recorded, and the planning conditions would set out the mechanisms through which the strategy and plans would be delivered.
- 9.42 However, Cadw believes that there has not been a full appreciation of the scale and cost of these commitments. By Mr Roberts estimation, about 150ha of the application site will have its landform remodelled. Any known archaeological sites in these areas will require proper recording and many as yet unknown sites buried by later spoil or retaining evidence of underground workings will be found. Over the remainder of the application site, the management of the landscape is also bound to bring out new historical and archaeological information.
- 9.43 If the development were to proceed, the response needed would probably make it the largest archaeological project ever undertaken in Wales. The effort would have to be sustained over the many years of the development, with the final archiving, and distribution and publication of the results to be completed after that date. The section 106 agreement identifies the appointment of an archaeologist. Cadw welcomes this, but this person is only likely to be able to commission, manage and collate the work of archaeological contractors responsible for undertaking the fieldwork, analysis and reporting on each phase of the development.
- 9.44 The section 106 agreement identifies a contribution of £300,000 towards the development of a heritage and environmental centre on or off the application site. This cannot be taken as mitigation for the permanent loss of archaeological sites and historic landscape features, which are non-renewable resources. The Council will need to consider carefully the revenue implications of manning and maintaining any new heritage centre. If this development does proceed, Cadw recommends that this capital sum be invested in renewing or extending the interpretation at an existing facility such as the Cyfarthfa Castle Museum.

Conclusions

- 9.45 The application site lies within the registered area of the Merthyr Tydfil Landscape of Outstanding Historic Interest, formed when the four major ironworks transformed Merthyr Tydfil into the largest town in Wales, and the greatest iron-making town in the world. The application site has an unusual concentration of well-preserved sites, which demonstrate the range of technologies developed for winning coal and ironstone, and transporting it to the Cyfarthfa Ironworks. This enabled the Crawshays to meet the ever-increasing demand for raw materials to supply the ironworks from its foundation in 1765 until its closure in 1874.
- 9.46 Three of the four major Merthyr Tydfil ironworks at Dowlais, Plymouth and Penydarren have lost most or all of their core buildings. The lands that they leased have become dissected, overbuilt and reclaimed to a large extent. However, much more of the Cyfarthfa Ironworks survives. The great furnace bank and charging platform have recently been conserved. The

leats for the water wheels and an iron bridge are scheduled. The ironmaster's house and park of Cyfarthfa Castle is the local museum. The subsidiary ironworks at Ynys Fach is scheduled and its great engine house has been brought back into use.

- 9.47 The land leased as the foundation of the Cyfarthfa ironworks provides the context for this complex of scheduled and listed buildings. A large proportion of this leased area remains open land with evidence for these extractive processes and the transport systems, which took them into the ironworks. As a result the Cyfarthfa Ironworks complex can be compared to equivalent areas in the Blaenavon World Heritage Site.
- 9.48 Cadw has tried to establish the importance of the historic landscape and its component archaeological sites within the application site. It currently contains two scheduled ancient monuments, but the applicant's ES, the Local Plan and the West Merthyr Historic Landscape Study have all identified a number of other sites which could be considered to be of national importance.
- 9.49 The Assembly's planning policies give a clear presumption that archaeological sites of national importance and their settings should be preserved *in situ* (Planning Policy Wales paras 6.1.1 and 6.5.1). It also seeks to ensure the conservation of the historic environment and cultural heritage (para 2.3.2), and see the Register of Historic Landscapes used as a material planning consideration when considering developments of a more than local impact in the registered areas (para 6.5.23)
- 9.50 The applicant identifies much of the application site as derelict or previously developed land. Parts of the site are identified as derelict in the local plan (areas DL8 and DL9), though these were not considered priorities for reclamation during the plan period. The definition of previously developed land in PPW (para 2.7.1), and the exclusions that it identifies should now, in Cadw's view, take precedence over the local plan, as its witnesses have demonstrated that the application site includes valuable industrial heritage, and that the remains of that industrial activity have become blended into the landscape over time so making it unsuitable for redevelopment.
- 9.51 What makes the application site so special is not just the numbers of individual sites relating to the iron industry, but how they interrelate and demonstrate the development of the extractive processes and the associated transport systems. The results of the West Merthyr Historic Landscape Study have provided the level at which the impact of the two phases of the proposed development is best understood. Mr Oakey has described the impact of phase 1 and phase 2 on the four zones of articulation and coherence of the archaeological remains, which he has defined. In the case of Zones A, B and C, two-thirds or more of these areas would be lost by the combination of phase 1 and 2 works. In Cadw's view, losses of this scale would seriously diminish the archaeological importance of the area and undermine the basis on which the registered area of the Merthyr Tydfil Historic Landscape was defined.
- 9.52 Cadw believes that the outcomes of the two recent public local inquiries into proposed land reclamation schemes elsewhere in the Merthyr Tydfil Historic Landscape are relevant to the consideration of these applications [Doc CADW15]. At Winch Fawr, the Inspector's conclusion was that the permanent loss of an area within the Registered Historic Landscape was considered more adverse than the economic benefits of the land reclamation scheme. At Ffos-y-fran, much of the land is derelict and had long-standing planning approval for reclamation through coal recovery. However the Inspector in that case praised the applicant for making great efforts to retain the scheduled and listed sites and their settings, and many other features of the Dowlais Free Drainage System, which was the most important survival

of the iron working landscape in the scheme boundary. In Cadw's opinion, the proposed permanent losses of the areas and individual components of the historic landscape at Rhydygar are greater than that at Winch Fawr, and the archaeological mitigation strategy is far less successful than that proposed at Ffos-y-fran.

9.53 Cadw believes that the loss of important archaeological sites and areas of historic landscape that would follow from both phases of the proposed development would be unacceptable when considered against the relevant national and local planning policies. Cadw does not consider the mitigation proposed in the section 106 Agreement and controlled in draft planning conditions as adequate when compared to the loss of these sites and areas. Cadw recommends that both these planning applications be refused.

10. THE CASE FOR CCW

The main points of the case put for Countryside Council for Wales are as follows:

- 10.1 The key areas with which CCW is concerned are historic landscape, habitats and protected species. CCW's concerns remain and certain of them are strengthened by the evidence produced at the inquiry.
- 10.2 CCW is a statutory advisor to Government on all of the above matters, and its remit is a limited one. CCW does not attempt to duplicate or take on a local planning authority's function at a public inquiry or attempt to deal with all of the issues under consideration. In this case CCW was content with the assessment of the Council's planning officers. It has restricted itself to issues on which it provided specialist advice to the Council and which require expanding upon. Thus no evidence is presented or challenged on behalf of CCW on areas outside its remit, including economic and social issues, housing, transport and retail impact.
- 10.3 CCW does take account of the potential benefits of a proposal, including social and economic benefits, before deciding whether to object to it. However, the detailed analysis and recommendation on the balancing exercise to be applied to the whole range of material considerations in this case is a matter for the Inspector in advising the Welsh Assembly Government. CCW's case therefore confines itself to the material considerations in its remit and the weight to be given to them with a brief comment on the balance to be struck against the economic and other issues and on the approach adopted by the Council at this inquiry.

The historic landscape

- 10.4 The historic landscape within the site should be given significant weight in any recommendation and decision for a number of reasons, which have been brought out in the evidence of both CCW and Cadw at this inquiry, including:
- The unique record, at least in the Welsh context, of a coal and iron extractive landscape from its earliest origins in the 18th century through its peak in the late 19th century and eventual decline.
 - The evidence of all aspects of this revolution in industrial production including successive transport and extractive systems, the use of water and steam power etc.
 - Its association with the other well-preserved historic features nearby, relating to iron production in Merthyr, particularly the Cyfarthfa furnaces and Cyfarthfa Castle.
 - The cultural significance of Merthyr Tydfil's historic landscape as a place of significant political, social, economic and religious changes that had far-reaching and lasting impacts on society well beyond the confines of the town.
- 10.5 The value of the above characteristics, especially in combination and at this scale, should be obvious to anyone. That value is confirmed by the Historic Landscape Register, where it lies within the Merthyr Tydfil Registered Landscape of Outstanding Historic Interest [Doc CD2.7]. The summary description of that area highlights the features on the site including "...associated coal mining industry, waste tips, power and transportation systems...". The Historic Landscape Characterisation Area report [Doc CD2.9] provides a detailed account of the attributes of the various HLCAs within the site. The character areas with some of the greatest interest, i.e. HLCAs 14 and 70, are those most seriously at risk from the development.

- 10.6 In planning policy terms the Register and the impacts of large-scale development on the land within it are material considerations by virtue of PPW paragraph 6.5.23. Although reference is made to the Register in the Local Plan there is no specific policy provision. This does not affect the weight to be given to the issue at all. The subsequent specific national planning policy advice in PPW makes it clear that adverse impact on a registered landscape is a key material consideration. Moreover, impact on historic landscape is an important issue and material consideration in its own right, irrespective of specific development plan support.
- 10.7 CCW has not duplicated matters addressed by Cadw concerning the importance of specific archaeological features within the site, but has focused on the applicant's evidence in relation to the importance of the historic landscape generally. Mr Wain's evidence seems to have been prepared without any clear understanding of the policy context within which the landscape should be viewed. He omitted all of the key policy advice on historic landscape within PPW and was unaware of the terms of paragraph 6.5.23 of PPW and the application of the Guide to Good Practice required by it. He did not, in his evidence, mention the criteria for identification of Merthyr as an outstanding historic landscape or say anything about its significance as an area on the Register. In short, little understanding was shown of either the context or importance of this historic landscape.
- 10.8 The lack of analysis by Mr Wain of the importance of the historic landscape forms the backdrop to his ASIDOHL assessment. The details of that assessment and CCW/Dr Gwyn's critique and alternative results are in the evidence [Docs ES A3, CCW63 & 64]. Mr Wain carried out his assessment without any discussion with CCW of the process or his results. Those results do not stand up to close scrutiny.
- 10.9 As an example, it was put to Mr Wain in cross-examination that the overall impact on HLCA 70 was, as CCW concluded, "very severe". He accepted that this was "a conclusion that you could come to". When the impact on HLCA 70 is examined, with 86% of the area, containing a wealth of historic features, being lost to development, it is plain that this is a conclusion that any commonsense approach would reach. This is a landscape area of national historical importance, providing "coherency to the landscape as a whole" in Mr Wain's view [paragraph 3.5.5 Oxford Archaeology ASIDOHL, Doc ES A3] which is inter-visible with numerous other areas. The underestimation of the impact upon it is just one example of the flaws in Mr Wain's ASIDOHL which represents a systematic undervaluation of the impact of the development on the site's historic interest. These criticisms still apply in respect of Mr Wain's revised ASIDOHL assessment, based on correctly identified historic character areas [Doc MV 5A].
- 10.10 The Register [Doc CD2.7] is clearly intended to be a document subject to review, to take account of changes affecting landscapes within it. This is made clear at ppXXXII and XXXIII of the introduction to the Register, which refers to "additions, amendments and deletions being made from time to time". Although the outcome of any such review cannot be judged with certainty, the combined phase 1 and phase 2 development could well lead to the Merthyr Tydfil Landscape of Outstanding Historic Interest being removed from the Register on review. Mr Wain agreed that such an outcome would be unacceptable, if it were to happen.
- 10.11 Much of Mr Wain's evidence on mitigation or compensatory measures in relation to the historic landscape and its features was not available before the inquiry and seems to have been produced as an afterthought on behalf of the applicants, again reflecting the lack of significance attributed to historic landscape matters during the application process.

10.12 Mr Wain produced new appendices to his evidence [Doc MV 5B] purporting to show the key linear historic alignments within the site and spoke of the commitment being made by the applicants to preserving historic features. Leaving aside the question of the effectiveness of the proposed section 106 Agreement [Doc 9] in meeting CCW's concerns, there are several flaws in this additional evidence provided by Mr Wain:

- The actual key historic features on the site go far beyond those few examples identified.
- In almost all cases (except possibly for the most southerly parts of the Brunel and Cwm Pit railway lines) the development is likely to remove or seriously damage those features.
- There is no attempt to respect any of these features on the indicative development layouts. Although a purely illustrative plan was produced almost at the end of the inquiry [Doc MV 14], purporting to show how the development layout might reflect key historic linear features, this plan shows the difficulty of doing this. It also demonstrates the absence of any prior attention to this issue. CCW's own plans submitted to the inquiry illustrate the extent of conflict with the most major features [Docs CCW62, 62a].
- Even if a commercially acceptable layout could be achieved which respected the line of some of these linear features, the intention is simply to echo the feature in some way on the ground. For example, a distributor road might follow the route of an historic tramway. Such an approach would be purely token. It would provide no coherent picture to anyone who knows the history of the site and simply pass everyone else by completely. It provides no meaningful mitigation to the harm that would result to this important historic landscape from the proposed development.

Habitats and Protected Species

10.13 The importance of the habitat within the SSSI at Cwm Glo, within the site boundary, is not disputed. The reasons for its statutorily protected status are plain [Doc CCW11].

10.14 Harm to the SSSI would be unlikely immediately to result from the development but the construction of a large residential scheme up to the SSSI boundary can only create pressures on habitat that result from a substantial increase in population combined with a reduction in the amenity space available to it. Ms Barter also expressed her concern at a reduction in the habitats surrounding the SSSI which could have a long-term impact on the number of plant species which it is able to maintain or regenerate if damaged.

10.15 The proximity of residential development to the SSSI, particularly to the smaller area where high density development will take place on three sides of the protected area, remains of concern to CCW. As Ms Barter said, the alternatives are either to make a "fortress" out of the SSSI with high fencing between it and residential properties, or to provide an open prospect that is likely to encourage an increase in inappropriate use. Neither solution is satisfactory.

10.16 A benefit claimed for the development is its ability to fund the maintenance of the grazing which is required for the SSSI. CCW's position on this is first, there is no particular threat to that grazing regime in the absence of development and second, if there were, CCW has the obligation, experience and funding to deal with it. Ms Barter mentioned the time devoted within CCW to ensuring proper maintenance of SSSI's and some of the ways, including management agreements and Tir Gofal, in which farmers are advised and assisted to this end. Even if the concerns about future viability of the grazing regime put forward by the applicant and the agricultural tenants are accepted, CCW will ensure that appropriate management of the SSSI continues. There is no advantage to the SSSI from the development taking place and every reason to fear that harm will result.

- 10.17 Mr Blackstock, giving evidence in place of Dr Stevens on the basis of Dr Stevens' proof, spoke of the other habitats within the site and their value as very rare habitats in lowland Wales [Docs CCW C, CCW12, 16, 20]. They must be seen in the context of the UK Biodiversity Action Plan (BAP) and s. 74 of the Countryside and Rights of Way Act which provide a new drive from Government to protect rare habitat more successfully than in the past.
- 10.18 Mr Blackstock emphasised the size of the area as being significant, with more species, and more rare species, likely to be present and added potential for colonising neighbouring sites. The sheer size of the application site and the extent of BAP habitats within it (with seven priority habitats under the UK BAP and five listed in annex 1 of the EC Habitats Directive) are therefore key factors to be taken into account in assessing its importance.
- 10.19 As set out in detail in Dr Steven's proof of evidence and appendices, around 116ha of UK BAP priority habitat would be lost, of which almost half represents habitats listed in the EC Habitats Directive. With this habitat no longer available there would be long term survival implications for some of the species within the site.
- 10.20 There was some debate over the methodology of the woodland and habitat classification. Dr Humphries' evidence is that there is not the extent of woodland found by CCW and that mature oaks are very localised. This is not a view shared by CCW after exhaustive survey. CCW used high-grade modern rectified photography [Doc CCW12 p2] as the base map for the on-site field survey/classification work which Mr Blackstock made clear was a highly accurate, standard technique. The field survey work was carried out by highly experienced people. The vegetation survey and conservation assessment by Bosenquet and Stevens [Doc CCW12] is an extremely detailed piece of work which can be relied upon in considering the habitats which would be damaged by this development.
- 10.21 Apart from the removal of the SSSI from the development area, Mr Blackstock could see little by way of mitigation or compensation to the other impacts on habitat within the application site. The development will remove a large central area, leaving peripheral strands of vegetation. He saw no evidence of undergrazing of the site and therefore no substance in the claim that potential improvements in the grazing regime would amount to compensation.
- 10.22 Turning to the evidence on mycologically rich grassland, Mr Woods is an expert on grassland fungi and provided clear survey evidence of the exceptional importance of the site for Waxcap, Meadow Cap and Earth Tongue species. Mr Woods' survey material demonstrates that this interest is by no means confined to the SSSI. In reality, every one of the 16 areas surveyed by Mr Woods contained examples of Waxcap species. In total 25 species were found across the surveyed areas, only three of which areas were within the SSSI [Doc CCW32].
- 10.23 Despite the limited amount of survey work it has been possible to carry out in the time available Mr Woods is confident that the Rhydycar site is an internationally important Waxcap grassland site [Docs CCW36, 38-40]. In addition, he has found that the site supports nationally (British) important populations of the Earth Tongue and a Pink Meadow Cap population of significance in South Wales.
- 10.24 The large range of species across the site in itself underlines its importance for fungi. Although no decision has yet been made about a further SSSI designation pending further survey work, this is a site that is clearly of considerable significance in terms of the waxcap species. The applicants presented no substantive fungi evidence themselves and simply

challenged Mr Woods' view of the relative importance of this site. Mr Woods' evidence is comprehensive and compelling on this important material consideration.

- 10.25 Mr Woods' evidence was that sites able to support fungi populations such as this develop over 50 to 100 years. He was not aware of sites less than 50 years old. It would be a "risky business" to fragment such a site and hope that it would survive.
- 10.26 Dr Humphries argued that the retained SSSI area would maintain the fungi interest of the application site. However, Mr Woods' evidence was clear that the wide ranging area of interest across the whole site, combined with his detailed survey analysis of the individual species within the 16 areas surveyed, contradicted this view. His convincing evidence on the relative importance of the overall Rhydycar site in national and international terms further undermines Dr Humphries' position.
- 10.27 Apart from the SSSI, the sites so far identified as rich in fungi interest, the short, well drained areas of grassland within the site, all fall within the proposed development area. There is little doubt that major harm would result to a nature conservation interest of considerable importance if this development were to proceed.
- 10.28 No proposals for mitigation of the damage to the mycologically rich grassland interest has been proposed by the applicants. Translocation is not a practical option and no relevant compensation measures are proposed.
- 10.29 Dealing with European protected species, the importance of the great crested newt and five bat species found within the site is demonstrated by their protected status under both British and European law. The site supports a variety of ponds used by great crested newts for breeding and habitat for foraging and shelter. The site offers the protected bat species which have been identified to use it with high potential for roosting and large feeding and foraging areas. The range of habitat is sufficient to maintain all of these protected species for all stages of their life cycles.
- 10.30 Dr Howe emphasised the point that the sheer size of the areas of semi-natural habitat within the application site is a key aspect of the sites' importance for the favourable conservation status of these species. The maintenance of a favourable conservation status requires the retention of a sufficiently large habitat for protected populations on a long-term basis.
- 10.31 In relation to the great crested newts, a serious loss of terrestrial habitat will inevitably result from the development. Dr Howe's view is that the newts already exploit the whole of the site and therefore the loss of a large section in the centre of it will significantly reduce their foraging area and potential for connectivity between different newt populations or within a single metapopulation [Docs CCW 44-46]. Dr Howe has accepted that the area, number and size of ponds proposed as mitigation and compensation by the applicants is acceptable. However, existing available terrestrial habitat will undoubtedly be lost.
- 10.32 "New" newt habitat is proposed but, in Dr Howes' view, this is already available to the newts and is therefore not compensatory. Connectivity provided by the current development and the mitigation layout is a problem with a narrow band, including residential gardens, being the only route available on the south-western/central area. With such a large development over a long period it is very important to maintain continuity of the great crested newt mitigation works, with the use of external audits and external ecological consultancy.
- 10.33 The protected bat species will also inevitably lose a large amount of feeding habitat and it is still unclear what effect the development might have on potential roosting sites.

10.34 Dr Howes' evidence on her remaining concerns over bats were that the detection methods could have failed to identify all species using the site so full information was not available to mitigate or compensate for all species which use it; that bats would lose large amounts of woodland; and that a variety of habitats is required to provide different foods for the different species. For example, pipistrelle bats will be able to forage in residential gardens but the same will not be true for woodland species.

10.35 The applicants state an aim to retain areas of high roost potential and corridors, but this has not yet been shown on even an indicative layout plan. A number of points were put to Dr Howe in cross-examination regarding the ability to achieve a suitable scheme and mitigation measures so far as great crested newts and bats were concerned. Dr Howe made it clear that this is not an objection in principle but there is as yet no scheme or illustrated layout that actually addresses these issues and achieves the applicants' development objectives whilst ensuring the maintenance of the favourable conservation status of these protected species.

The Section 106 Undertaking

10.36 CCW has been consulted on the terms of the undertaking [Doc 9] and, subject to the actual form of the final document, does not take issue with its drafting. However, CCW has significant concerns about the effectiveness of this approach as a means of conserving the historic landscape and ecological value of the site.

10.37 Essentially all of the section 106 provisions relevant to CCW issues are to provide mitigation or compensation for the damage that will result from the scheme. For example, the habitat creation scheme objective is to "mitigate the loss to biodiversity" after implementation, comply with legislation and enhance wildlife opportunities "within the development". The species mitigation plan objective is in similar terms. These objectives are about action after development, not before.

10.38 In relation to historic landscape, "historic landscape components" are to be included in a "structured landscape framework" but the s106 undertaking does not provide for the preservation of specific historic landscape features within the site.

10.39 Evidence before the inquiry includes comparisons of the current masterplan and the various plans showing historic landscape features, comprising both individual sites and large scale, mainly linear, features. Other plans show nature conservation interests across the site including habitat classifications, newt ponds and terrestrial habitat, bat corridors and areas of mycological interest. What these plans demonstrate is the difficulty of designing a scheme that meets the applicants' commercial objectives yet takes proper account of the conflicting requirements of these significant material considerations.

10.40 The illustrative plan [Doc MV 14] produced late in the inquiry does not allay these concerns. It suggests mitigation by translocation of habitats – but this is impractical in the case of marshy habitats and waxcap grassland. Such an exercise would be pointless, and moreover would displace other habitats in the process. Bat corridors indicated on the illustrative plan are very narrow and located in inappropriate locations unrelated to roosting and foraging areas. The mitigation measures indicated by the illustrative plan would not maintain a coherent habitat for great crested newts. The plan shows the real practical difficulties in reconciling these issues with the proposed development.

10.41 Whatever emerges under the various environmental schemes to be produced under the provisions of the section 106 undertaking will necessarily meet the objectives of the applicant first before looking to mitigate the unavoidable harm to these historic landscape and nature

conservation interests. The heritage and environment centre proposed could be argued to be a potential benefit to be set against this harm. However, it should be given minimal weight. Such a centre is of little interest compared to the existing heritage and environmental interest of the site itself. It would certainly provide no mitigation or compensate for the loss of and damage to that interest.

10.42 In summary, CCW's position on the section 106 undertaking provisions relevant to its case is that there is no evidence before the inquiry to show that it is possible to design a scheme that meets the applicants' objectives whilst satisfactorily taking account of the major issues relating to historic landscape, protected species and habitats. The undertaking in theory provides a framework for mitigation but does not remove CCW's fundamental concerns.

Policy Considerations

10.43 There is no need to rehearse the development plan policies in detail. The key point concerning the importance of relevant environmental protection policies in both the replacement structure plan and the local plan is underlined by the detailed analysis and comments of the Head of Planning in his report to the Council. Policies EV 1 and EV 5 of the Structure Plan and NH1, NH3, NH5 and NH6 of the Local Plan are all countryside and environment protection policies directly applicable to this development and which Ms Maddock-Jones' analysis [Doc CCW F] demonstrates argue against permission. CCW does not agree with Mr Crook's analysis [Doc MV 1 Appendix MC2] that the development complies with these policies by virtue of mitigation measures being proposed to compensate for losses. The Council's planning officers have made it clear that they have not indicated agreement with Mr Crook's analysis regarding compliance or otherwise with the various policies. Even Mr Crook for the applicant has acknowledged that the development's compliance with these policies is "limited".

10.44 The applicants' evidence places emphasis on the site being derelict and previously developed land. However, as agreed in the statement of common ground the site is used for stock grazing. There is also the evidence of its nature conservation value and the extent to which past remains have blended into the landscape. PPW excludes the following from the definition of previously used land:

- Land currently in use for agricultural purposes
 - Land where the remains of any activity has blended into the landscape over time
 - Previously developed land where its nature conservation value could outweigh site reuse
- These exclusions to the brownfield definition could have been written with this land in mind and it is a particular weakness of the applicant's approach that they appear to have been totally ignored. This is another aspect of the undervaluation of this site.

10.45 National Policy in the form of PPW strongly promotes sustainable development and protection of natural heritage. It brings in the historic environment as an aspect worthy of preservation and enhancement, recognising its contribution to economic vitality, and advises that the Historic Landscape Register be taken into account where development has more than local impact on an area of the Register. This plainly applies here.

10.46 TAN 5 provides national advice on detailed matters of nature conservation and the consultation draft revised TAN 5 maintains and further emphasises the need to bring nature conservation and biodiversity issues into the balance in making development decisions.

- 10.47 It is notable that there is no reference to the Wales Spatial Plan (WSP) as a relevant planning policy in the draft revised TAN 5. The terms of the WSP are clearly a material consideration in this application, but it does not constitute national planning policy replacing PPW and TAN 5. The WSP and "Heads – We Win..." draft document are given overriding weight in the applicants' case. An argument has been constructed that they create a "strategic economic imperative" for permitting this scheme, that in effect overwhelms pre-existing national and development plan policy. In the face of this claimed overriding material consideration historic landscape, nature conservation and other environmental and sustainability issues are to be swept aside, according to the applicants.
- 10.48 CCW's role is not to analyse the weight of material considerations outside its remit. However, whilst it recognises that Merthyr Tydfil needs regeneration it cannot accept that this must be at the expense of all other material considerations.
- 10.49 The applicants' stance is supported by the Council. However, the Council's evidence at the inquiry has been far from satisfactory. Its Chief Executive refused to answer questions on how the Council's planning decisions had been arrived at. It was very clear that his only focus was on the economic benefits for the local authority area and protecting the Council's own interests from disadvantage as a result of the development. He gave no consideration to key aspects of sustainability including environmental impacts and impacts on historic landscape. The implication of his evidence is that the economic benefits for the Council and its area from this development had not been properly weighed against environmental and other impacts. This was also apparent from the Council Leader's evidence, which again focused entirely on benefits rather than impacts, and the reasoning given for the Council overruling the officer recommendation of refusal. The minutes of the Council's meeting of 26 September 2005 make its approach clear. The reasons for departing from the officer recommendation are related to private investment, "the Council's Vision", new amenities and housing stock, social/economic wellbeing and new jobs. Essentially, all of those reasons relate to economic benefits, reflecting the serious lack of balance in the Council's position.
- 10.50 When it comes to a professional and measured approach to the competing material considerations in this decision, CCW supports the analysis and conclusions of the planning officers, which represent a balanced and objective view in the face of clear political pressure.

Conclusions

- 10.51 A number of interests of acknowledged importance would be harmed by these proposals. Historic landscape, natural habitats and protected species are all difficult to place a financial value upon but all are acknowledged as crucial aspects of sustainability.
- 10.52 CCW has not, at this inquiry, challenged the economic and commercial assumptions underlying the "single site" solution to Merthyr's economic and social problems proposed by the applicants. However, it endorses the view of the LPA officers who, notwithstanding their responsibility to give great weight to social and economic matters, did not consider that the alleged benefits of this "big bang" approach outweighed other considerations.
- 10.53 The applicant makes much play of the fact that the size of this site creates a unique opportunity. CCW asserts that it is in fact the combination of scale and diverse conservation and historic interest on this site that is unique, and irreplaceable. National and local policy requires that those interests of concern to CCW must be given very serious weight in determining the balance to be struck in this case.

11. THE CASE FOR MERTHYR INITIATIVE GROUP

The main points of the case put for Merthyr Initiative Group (MIG) are as follows:

- 11.1 MIG maintain their objection to these two separate but interdependent planning applications for the development of the site. The basis of objection is:
- The development proposals represent a significant departure from policies contained in the adopted structure and local plans, as identified in MIG's evidence [Docs MIG 1 & 2].
 - The proposals are in conflict with a range of policies contained in both PPW and Mineral Planning Policy (Wales), again as identified in MIG's evidence [Docs MIG 1 & 2].
 - The proposals fail to protect adequately the unique features of nature conservation, industrial heritage and landscape importance within the development site boundaries.
 - The ESs provide inadequate information, raising serious concerns about the lack of operational detail and effectiveness of the mitigation proposed.
 - MIG support the comprehensive objections to the proposals advanced at the inquiry by CCW, Cadw, GGAT (Curatorial Division) and the Wildlife Trust of South & West Wales.
 - The concerns of the Environment Agency, South Wales Police, South Wales Fire Service, the Coal Authority and the WDA detailed in the Officer Report on the phase 2 proposals [Docs CD6.6/6.8] are endorsed as material considerations in the decision process.
 - MIG endorse the conclusions and recommendations of the professional officers of Merthyr Tydfil CBC in the two comprehensive and objective reports and annexes on the phase 1 and phase 2 proposals, for refusal of the interdependent planning applications.
- 11.2 Of primary importance in considering the twin applications is the fact that 207ha of the 224ha application site lies outside the defined settlement boundaries, in 'open countryside'.
- 11.3 MIG's evidence provides detailed information of a sufficiency of available land for housing, business, retail, leisure, and commercial use within the determined settlement boundaries to meet any reasonable projected need [Doc MIG 2]. The housing land availability figures were subsequently confirmed and updated in evidence provided by the Council to the inquiry. MIG's employment land availability evidence and its potential for generation of employment opportunities in a diverse range of skills sets, contained in a report prepared by the Council in October 2003, was not challenged.
- 11.4 The applicant has failed to show any need to extend the urban form of Merthyr Tydfil beyond the existing settlement boundaries to accommodate built development proposals.

The Phase 1 Planning Application (020060)

- 11.5 Due weight must be given to the professional officers' conclusions at paras. 8.1 and 8.2 (pp 82/83) of the phase 1 report to Full Council [Doc CD5.1]. The report refers to the planning balance which must be struck in making the decision. It concludes that the proposals are not in accord with the provisions of the development plan and other policies, and that no material considerations apply which may justify a decision contrary to those policies. The report recommends refusal of the planning application and identifies the precise policies in the Structure Plan, Local Plan and other documents which support the recommendation.
- 11.6 MIG question the advisability of the 'minded to approve' decision made by elected members of Merthyr Tydfil CBC. The decision did not comply with their own adopted procedures for making planning decisions [Doc MIG 2 Appendix 13]. The decision was:

- Contrary to stated policies in their own adopted structure and local plans.
- Contrary to policies in PPW and MPP(W).
- Contrary to the advice of statutory consultees.
- Contrary to their own specialist officer's recommendations.
- Unsupported by any statement or vote by elected members as to the planning reasons for failing to follow the officer recommendation for refusal of this planning application.

11.7 The phase 1 proposals do not comply with identified policies in the adopted structure and local plans for Merthyr Tydfil CBC, PPW and Mineral Planning Policy (Wales); there are no material considerations which would justify a decision contrary to those policies; and planning application 020060 should therefore be rejected.

The Phase 2 Planning Application (020260)

11.8 Most (207ha out of 224ha) of the application site lies outside the settlement boundaries of Merthyr Tydfil where there is a general presumption against built development. Of the land within the settlement boundary, 16ha is identified as E13 on the Local Plan proposals map and is reserved as a special regional employment site designated for B1 use. Its use for retail, leisure or housing development is forbidden.

11.9 Only 0.7ha of the application site (identified as H13) is allocated for housing. It thus follows that the phase 2 proposals for a comprehensive development comprising retail, leisure, offices, hotels and an extensive housing programme in open countryside are a significant departure from both the adopted structure and local plans for Merthyr Tydfil and are contrary to a range of policies in PPW and Mineral Planning Policy (Wales).

11.10 The planning officer report to the Full Council meeting on 26 September 2005 lists the relevant policies which are supportive of its conclusions and recommendation that the Phase 2 proposals should be refused permission [Docs MIG 2 Appendix 4 & CD6.6/6.8].

Mineral Planning Policy (Wales)

11.11 The recently published consultation draft (January 2006) Minerals Technical Advice Note 2 (Wales) Coal is a material consideration given the requirement to 'safeguard' strategic reserves of coal from any development which might harm/hinder its future extraction when a more environmentally acceptable method of its extraction or use could be developed. The establishment of clearly defined buffer zones and separation zones in the draft Coal TAN are also material considerations to be given due weight. The ground stabilisation proposals by grouting old mine workings in phase 1 and the extensive proposed built development in phase 2 will result in the sterilisation of strategic coal reserves estimated to be in the region of 4.5 million tonnes, contrary to national policy.

Nature Conservation Interests

11.12 The application site contains an SSSI, Sites of Importance for Nature Conservation (SINCs), a number of candidate SINCs, an area of Ancient Semi Natural Woodland, and an additional area (TPO 15) of protected woodland. It hosts great crested newts and five species of bats, and other species and habitats of national and regional importance. The applicants and their agents have failed to identify or quantify the extent of the loss to biological diversity that implementation of their development proposals will cause. Any proposed mitigation is therefore not evidence based and is inadequate. The presence of European protected species, namely great crested newts and 5 species of bats, utilising unquantified areas of the application site for breeding and/or foraging requires that each of the three tests of the

European Species/Habitats Directive must be rigorously and objectively applied. The developer has not produced verifiable evidence that their proposals meet any of the tests.

- 11.13 It was therefore unwise for elected members of Merthyr Tydfil to be 'minded to approve' both the phase 1 and phase 2 planning applications when they had received professional advice that the criteria in each of the three tests had not been satisfied.
- 11.14 Mr and Mrs Connolly initially discovered a range of fungi, including the Pink Wax Cap during a survey in the Autumn of 2004. The national importance of the application site for grassland fungi was confirmed in a CCW survey in October/November 2005, details of which appear in their evidence to the inquiry [Doc CCW32].
- 11.15 The unique nature conservation interests of the application site have been understated, misinterpreted and misunderstood by the applicant and its agents. The fragmentation and loss of important habitats as a direct result of the phase 1 and phase 2 proposals will result in an unacceptable loss to biological diversity within the application site boundaries and therefore also in areas adjacent to it.
- 11.16 The development is contrary to policies in the adopted structure and local plan, PPW and the recently published consultation draft of the revised TAN 5 'Nature Conservation and Planning'. Unacceptable loss to biodiversity will ensue if the development proposals are approved; a loss which cannot be compensated for or mitigated.
- 11.17 The recent decision of an Inspector reviewing the acceptability of the Monmouthshire UDP on the status of candidate SINCs [Doc MIG 2] is an important material consideration in respect of this development.

Conserving the Historic Environment

- 11.18 There is the strongest case for the preservation and enhancement of the archaeological remains, 'a finite and non-renewable resource', present on the site. It contains around 483 archaeological artefacts, relevant to Merthyr Tydfil's development as the largest town in Wales in the 18th century and the crucible of the Industrial Revolution.
- 11.19 The site is the largest and most complete remaining area of the Cyfarthfa Mineral Lease within Merthyr Tydfil's Landscape of Outstanding Historic Interest. MIG's evidence and that provided by Cadw, CCW and GGAT made the case in the strongest terms for compliance with the Assembly Government's objectives for 'Conserving the Historic Environment'.
- 11.20 The land reclamation proposals in phase 1 and the built development proposals of phase 2 will result in loss of and damage to innumerable historical artefacts of national and local importance, contrary to national and local planning policies. The developer has singularly failed to recognise the contribution that preservation and enhancement of the historic environment can make to economic vitality through tourism, renewed civic pride and a sense of place to local communities. The lack of a coherent programme involving the identification, relevance and recognition of the importance of settings to archaeological artefacts within a landscape of outstanding historic importance raises serious and continuing concerns on the appropriateness of any proposed mitigation.
- 11.21 The presumption in favour of preservation in situ of nationally important archaeological remains 'whether scheduled or not' does not appear to be acknowledged by the applicant or their agents as they have failed to provide any detailed proposals for their protection. Their assumption that 'preservation by recording' is a satisfactory option is flawed as their expert witness incorrectly identified the location of a number of the most important remains or failed

to include them in his submission. MIG has attempted to address those deficiencies in its evidence in Doc MIG 3 on heritage issues, in its supplementary evidence Doc MIG 8 and during the accompanied site visit.

11.22 The proposals would have a detrimental effect on the integrity of the archaeological remains within the application site boundaries; are contrary to national and local policies on conserving/protection of the historic environment and are therefore a reason for refusal of the two interdependent planning applications. Attention is drawn to the decision and recommendations made in respect of the historic landscape at the Winchfawr West inquiry, evidence of which was included in our submissions and those of CCW and Cadw [Doc CADW15].

Open Access Land, Rights of Way

11.23 CCW has confirmed that 49.7ha of the application site, adjacent to Gernant Lane, Heolgerrig to the west of Cwmglo is open access land.

11.24 On the masterplan presented to the inquiry there are proposals to build executive housing on a substantial section of this recently confirmed open access land. MIG's evidence [Docs MIG 5 and MIG 9] is a material consideration on public access to this historically and ecologically rich site. MIG's witness Mr Connolly has claimed 10 established footpaths as rights of way. Enclosures 3, 4, 5 of Doc MIG 5 indicate and demonstrate that these footpaths have an established provenance having existed on the site for a considerable number of years. This evidence that 'de facto' public access has existed and remained unchallenged or uninterrupted is a material consideration on the status of these rights of way [Doc MIG 9].

11.25 The late objections by a tenant farmer to these claimed rights of way should be disregarded; the objector is not the landowner and the tenancy only relates to part of the application site.

Landscape Protection Areas

11.26 Some 70ha of the application site are identified as landscape protection areas on the local plan proposals map. There is a presumption against development in these areas. The proposals for housing and supporting infrastructure in landscape protection areas are contrary to policies in PPW and in the adopted structure and local plans. This is a material consideration in the planning decision balance.

Retail Impact

11.27 The extensive retail proposal inherent in this development will have a seriously detrimental impact on the viability of town centre retail facilities in Merthyr Tydfil, Pontypridd, Aberdare, Mountain Ash and Bargoed. The recently issued MIPPS 2 'Retailing and Town Centres' reinforces the role of town centres as the most appropriate location for retail, leisure and commercial development. This is precisely the thrust of the retailing policies in the adopted structure and local plans.

11.28 The applicants' prediction on retail need in 8 or 9 years time has no relevance or validity. It does not factor in regeneration proposals which will come on stream much earlier in retail facilities in Merthyr Tydfil and Pontypridd. Their predictions underestimate the potential for harm of 32,400sqm of additional retail capacity on adjacent town centres' facilities; and overestimate future retail growth potential in the central and upper valleys area.

11.29 As a 'one stop shopping retail experience' in an out-of-town location access will be predominantly by private car. This is clear from the allocation of 2,550 car parking spaces at

the retail complex shown on the master plan. An additional 2,000 car parking spaces are allocated on the adjacent leisure, hotel and business complex.

- 11.30 Congestion already occurs on the A470 on the approaches to the Gellideg/Cyfarthfa Retail Park roundabout at weekends. This problem will be exacerbated with the opening of the Trago Mills Retail and Leisure Park scheduled and serviced off the same roundabout on the A470 in 2008.
- 11.31 The additional traffic created by the proposed development on the A470 at the three access/exit points serving Merthyr Tydfil will result in serious delays on the main North-South Wales trunk route and congestion in Merthyr Tydfil town centre.
- 11.32 Disaggregation of components of the retail, business and leisure facilities to available sites within the settlement boundaries of the main settlement of Merthyr Tydfil was discounted by the developer in evidence to the inquiry. The rationale that only 'the critical mass' of their proposals located on a single site would meet the aspirations of the Wales Spatial Plan and "Heads - We Win..." is challenged. If the phase 2 proposals were authorised it would inhibit other retail regeneration proposals being progressed in the Mid and Heads of the Valleys sub region. A proposal of this magnitude, the allocation of additional retail floor space of some 32,400sqm, should be subjected to the iterative process of a Sustainability Appraisal and Strategic Environment Assessment in the development of Merthyr Tydfil's new Local Development Plan.
- 11.33 Due weight should be given to the comprehensive objections submitted by Caerphilly [Doc WS14] and Rhondda Cynon Taff Councils [Doc CD6.6], Savils [Doc WS 2] and the Merthyr Tydfil Town Centre Partnership [Doc WS 8] in respect of these extensive out of town retail facilities which will seriously impact on town centres' viability and vitality in their areas of interest/responsibility.

Leisure/Serviced Accommodation Facilities

- 11.34 The proposals for leisure and serviced accommodation facilities became more tenuous as the inquiry progressed and had all of the properties associated with a mirage. The constant assertion that mitigation can be achieved with 'a sensitive design of discrete areas of the development site' 'to protect areas of ecological and historical importance' calls into question the status and relevance of the master plan. If the footprints of the leisure complex, its composition - the sports stadium, the golf driving range and associated hotels are indicative only, what the developer is seeking is carte blanche approval of an extension to the settlement boundaries to accommodate an unspecified built development in an area which at present is open countryside of ecological, historical, national and local importance.
- 11.35 The provision of a 10,000 seat multi-facility stadium is aspirational only and unlikely ever to be built. Questions of need and how its construction and operating costs will be financed remain.
- 11.36 It is unclear what specific or even indicative leisure, serviced accommodation and support facilities remain on the table. Apparently this would depend on the range of facilities provided by Merthyr Tydfil Council at the existing Rhydycar Leisure Centre site.
- 11.37 What is known, however is that the indicative location of the golf driving range, if implemented, would result in the loss of a pond and terrestrial habitat which currently supports a European protected species - the great crested newt.

11.38 The indicative location of the sports stadium, if confirmed and built, would result in the loss of Ancient Semi-Natural Woodland and part of the Cwm Pit Woods SINC.

Business Facilities/Units

11.39 Vacant units are available for immediate occupation on the Goat Mill, Pentrebach, Pant and Cyfarthfa Business Parks. Development land exists at Pengarnddu, Goatmill, Pant and Rhydycar East Business Parks. These are fully serviced sites with a spatial spread across the main settlement of Merthyr Tydfil. Their job creation potential was addressed in a Council report dated October 2003 [Doc MIG 2].

11.40 The indicative siting of the business units in the proposals could only be accommodated by an extension of the determined settlement boundaries of Merthyr Tydfil into open countryside, contrary to national and local planning policy.

Housing

11.41 The latest information provided by the Council to the inquiry [Doc MT 3] indicates a land bank sufficient to accommodate the construction of 2,527 dwellings within the next four years. The accompanying map indicated the spatial approach reinforcing settled communities adopted by the Council in this latest review.

11.42 Even at a new build programme of 250 dwellings per annum, itself an increase of 100 dwellings per annum over and above that achieved over the past 8 years, there would be sufficient housing land for a ten year period.

11.43 The latest housing needs survey indicates an increasing demand in Merthyr Tydfil for one, two, three bedroom accommodation 'to rent' which is a direct result of house price inflation and a reduction locally in the availability of affordable housing for first time buyers. This is the problem which must be addressed and prioritised if we are to meet housing need for our indigenous population.

11.44 The concentration of high priced executive housing envisaged in the proposals would exacerbate social exclusion and is contrary to the philosophy of establishing mixed tenure communities.

11.45 The allocation of additional land outside the settlement boundaries of Merthyr Tydfil in open countryside on a single site is unsustainable and contrary to national and local planning policy.

11.46 There are no material considerations which would justify any decision contrary to national and local planning policy on this issue.

Statements/Evidence of Merthyr Tydfil CBC in support of the application

11.47 The statements/evidence of the Council's two witnesses should be discounted. The Chief Executive Mr Neil failed to advance any material evidence for the Council's decisions to reject the advice and recommendations of their specialist professional officers which was against the proposals. He admitted that his knowledge on the planning issues concerned was limited.

11.48 The Council Leader, Councillor Harvey Jones, was extremely selective in his quotations on the conclusions of not only the Council's specialist professional officers but also the WDA. His evidence therefore did not accurately recall the balanced views of either the Council's professional advisers or the WDA. As Council Leader, his claim that his knowledge of

policies in the adopted structure and local plans was limited, since he had not been a member of the Planning Committee for some years, is alarming for one of his seniority and as the proposer of the motion to reject the conclusions and recommendations of the Council's professional advisors on phase 2.

11.49 The comprehensive and objective reports prepared for both the phase 1 and phase 2 planning applications by the Head of Planning were issued in the name of the Council's Deputy Chief Executive, had been the subject of an internal consultation process involving all other Directors including the Chief Executive and the Chief Officer Finance Audit and Risk Management prior to their presentation to the elected members. Not one of the Directors appears to have disagreed with the conclusions and recommendations.

11.50 A request by MIG to call Mr Norman Davies, Head of Planning as a witness at the inquiry was rejected by the Deputy Chief Executive. It is contended that his evidence as to the planning balance of the proposals would have more accurately reflected their non-compliance with national and local planning policy than that of the Council's two witnesses. No weight should be given to their evidence.

12. OTHER INTERESTED PARTIES

Rhydycar West Regeneration Partnership [Doc OP 1]

- 12.1 The partnership is a formally constituted body of about 10 persons comprising representatives of various local groups. It objects to the proposals. The main objective of the partnership is to promote alternative uses for the site which are based on its ecological, archaeological and historical interest, and which would develop its potential to contribute as a key element of the local tourism economy, based on these assets. To this end it has had preliminary discussions with the WDA. The partnership's intention would be to formulate a case for compulsory purchase of the land and its subsequent development as a major parkland environmental, heritage and recreational resource, including visitor accommodation and interpretation facilities, utilising external public funding sources.
- 12.2 National planning policy guidance (PPW Chapter 11), the Wales Spatial Plan and the consultation document "Heads - We Win..." all refer to the potential significance of tourism as a part of the local economy. The site has clear potential to make a major contribution to the tourism economy of Merthyr and for its historical and ecological assets to be developed as a resource for the local population and visitors to use and enjoy. Various articles and programmes in recent years have demonstrated the heritage interest of the Rhydycar West site and its potential in these terms as part of a wider regeneration strategy for the area. The potential World Heritage Site status of the site is acknowledged by the WDA, and demonstrates the key significance of this site in heritage terms.
- 12.3 The development proposals before the inquiry would prevent the site fulfilling its true potential as a major industrial heritage, natural environmental and recreational resource. It would fail to capitalise on these key features of the site, which make it a major asset to the area and which are recognised in Government guidance as being important attributes which the Heads of the Valleys regeneration strategy should build upon. The proposed development would destroy an important part of the natural environment setting of the town, whilst doing nothing to regenerate the town centre itself, where new investment is really needed. As such, the proposed development runs counter to these aspects of policy guidance.

Merthyr Tydfil Anti-Opencast Campaign [Doc OP2]

- 12.4 The group has been in existence since around 1995 as an informal body of individuals opposed to opencasting. It currently has about 10 members, a number of whom also belong to Merthyr Initiative Group and to Rhydycar West Regeneration Partnership. The group opposes the proposed development. The site has a record of opencast proposals in the past [Doc CD6.6 *Planning History* section], and the group considers that there is a continuing threat of opencast operations lying behind the present development scheme.
- 12.5 Minerals Planning Wales [Doc CD1.4 p13] refers to the need to safeguard mineral deposits against threat from permanent development. This is particularly relevant given the current energy supply debate, in which coal may still play a part with cleaner technology. There are at least 4.5 million tonnes of quality coal beneath the site, in coal seams which outcrop close to the ground in many places [Doc OP 2 Appx 3]. It is plain that development would not be permitted that would sterilise such significant coal reserves. Recent letters from British Coal [Doc OP 2 Appendix 1a] make it clear that grouting would not be an acceptable course, and that stabilising is only possible if the coal is removed. British Coal would strongly favour removal of both shallow and deeper coal reserves prior to development rather than sterilisation of the reserve. The EIA also confirms that treatment of coal outcrops close to the

surface would be necessary before the development could occur, either by capping or by removal of the coal residues, in order to remove future threats of possible spontaneous combustion [Doc ES Vol 1 p92 s6].

- 12.6 It is thus plain that sterilisation of such important coal reserves by the proposed development would not be permitted; and that there would be pressure to remove the coal reserves before the built development is carried out.
- 12.7 Moreover, the development proposals are completely out of accord with the development plan; 92% of the development area is outside the defined development boundary for Merthyr. The purpose and standing of the local plan would be completely defeated if the current proposals were allowed.
- 12.8 The proposals would lead to the destruction of the ecology, archaeology and history of the site. The group supports the evidence of CCW and Cadw relating to this. The proposals are at odds with the local authority's Countrywide Strategy, Biodiversity Plan, Local Agenda 21 and the sustainability principles that underpin its policies.
- 12.9 The EIA misleadingly refers to the site as essentially being derelict. This belies the site's major biodiversity significance, as revealed by the EIA's own inventory, which includes many protected species. The EIA statement on ecology demonstrates that there would be huge losses. There are very many trees on the site, of many different species, including 8 areas covered by Tree preservation Orders and areas of ancient woodland.
- 12.10 The EIA identifies 483 recorded archaeological features of importance within the site. It is not possible for these to be preserved, given the scale of development proposed for the site. These features are of importance to Merthyr's industrial past, and are significant to the history and development of Wales.
- 12.11 Contrary to the description of the site as derelict land, it is an area rich in ecology, biodiversity, history, archaeology and landscape value. Photographs of the site clearly show this [Doc OP 2 Appx 7]. All this would be lost if development proceeds.
- 12.12 The whole scheme is unsustainable. The retail provision proposed would massively duplicate retail provision in Merthyr. It would be out of town provision that would not complement existing retail developments, and would not assist the town centre. The leisure and housing development proposed could and should be provided on the many available sites within the development boundary of the town.

Wildlife Trust for South and West Wales [Doc OP 3]

- 12.13 The Trust gave evidence, intended to complement that of CCW, against the proposal concerning its implications for the biodiversity interest of the site in the context of the Merthyr Tydfil Local Biodiversity Action Plan (LBAP).
- 12.14 Excluding the SSSI, some 34.47ha (15.32%) of the site is designated as a site of nature conservation interest (SINC); the local plan states that it is likely that further SINCs will be added to the list, and work is in progress on this [Doc MIG11].
- 12.15 The development site is contained within probably the largest block of semi-natural lowland habitat within the LBAP area. It contains a mosaic of at least 8 of the habits of principal importance for the conservation of biological diversity in Wales, out of a total of 17 such habitats found in the Merthyr Tydfil LBAP area. The LBAP seeks to halt loss of each of these habitats, except fen.

- 12.16 Significant proportions of Merthyr Tydfil's resource of 5 priority lowland habitats (semi-natural woodland, neutral grassland, lowland acid grassland, purple moor grass and heathland) lie within the development boundary of the proposals.
- 12.17 A number of priority and local priority species are present, together with other species protected under the Wildlife and Countryside Act 1981 (as amended). In addition to the known European Protected Species referred to in CCWs evidence, surveys have identified four Section 74 species of bird (linnet, reed bunting, bullfinch and song thrush), all of which are on the conservation concern red list.
- 12.18 In addition to the 1994 CCW recording of the Marsh Fritillary butterfly in 1994 there have been further unconfirmed reports up to 2000. This species is afforded full protection under the Wildlife and Countryside Act 1981; it is well established that suitable unoccupied patches of habitat (purple moor grass and rush pasture) are essential to the long term survival of the metapopulation.
- 12.19 Other local priority species recorded as present include palmate newt and small pearl bordered fritillary. The ES recorded grass snake and common lizard; it is likely that slow worm and adder are also present.
- 12.20 The loss of so much habitat of priority biodiversity importance would prevent the LBAP attaining its target of contributing to halting biodiversity loss. Merthyr Tydfil would almost certainly not be in a position to meet the future habitat restoration and expansion targets to be set in 2006. The loss of the area of purple moor grass would undermine any biodiversity conservation work for the marsh fritillary in this area. The loss of lowland heathland foraging habitat would harm the prospects for the nightjar (another Section 74 species, which has attempted to breed at Blaencanaid).
- 12.21 In conclusion, the site is one of major biodiversity importance. Recent survey work on fungi shows how little may actually be known about the site. If the development were to go ahead, Merthyr Tydfil would lose one of its most important biodiversity resources.

Merthyr Tydfil & District Naturalists' Society [Doc OP 4]

- 12.22 The society opposes the development. It owns and manages two local nature reserves, including Webber's Pond close to the southern end of the site. It also is actively involved in the Merthyr Tydfil LBAP.
- 12.23 The society draws attention to the wide range of evidence before the inquiry as to the character and value of the site in habitat and biodiversity terms including the numerous designations and protection measures which apply to different parts of the site and to individual species present within it. It also refers to CCW's comprehensive objections to the proposals, on the basis of the level of harm that would be caused to the habitats present and the species they support, and on the basis of the harm that would result to the historic landscape value of the site. Attention is also drawn to the objections and concerns of Cadw, GGAT, RCAHMW, the Environment Agency, WDA and Council officers with a range of responsibilities, in relation to the rigorousness of the analysis and conclusions of the Environmental Statements submitted in support of the proposals and in relation to the impact of the proposals themselves on the site and on Merthyr generally. Overall, the analysis of the proposals in the ES downplays the quality and value of the site in amenity, habitat and historic landscape terms, and so understates the adverse impact of the development.

- 12.24 Other wildlife species not noted by the applicant may well be present. In particular, it is known that otter frequent the River Taff and a dead dog otter was found on the A465 near the Baverstocks Hotel several years ago. It is therefore quite possible that otters may use the Rhydyar site, where there are ponds which may provide a food source. A badger sett is also known on the site. There is no reason why the Marsh Fritillary may not still be present; with proper habitat management there is every prospect that it would return. From just two species of bat recorded in 2002 there are now five species recorded. It is possible that there are others, as yet unrecorded.
- 12.25 The development proposals are contrary to a large number of policies in the development plan and to key principles of the Wales Spatial Plan, as identified in the officers' reports to members on the applications [Docs CD5.1, CD6.6/6.8]. In addition, officers concluded in relation to the phase 2 application that the development does not satisfy the tests under Article 16 of the Habitats Directive with regard to the European protected species within the site. The development proposals are completely contrary to fundamental principles concerning protection of the countryside and to established principles concerning the location of new housing in Merthyr, and the location of retail and leisure uses away from the town centre. These issues also raise questions of impact on the road network.
- 12.26 Given all of the foregoing considerations, it is plain that Council Members cannot have properly evaluated the proposed developments or have had due regard to these matters when deciding to support the development proposals.
- 12.27 The society considers that the development would destroy an area of tremendous wildlife and ecology, as well as heritage, value, which has real potential as an educational and amenity resource, particularly if invested in along with the heritage potential of the site.

Merthyr Tydfil Ramblers' Association Local Group [Doc OP5]

- 12.28 The planning applications being considered would affect an area of open land currently used for quiet recreation by local group members and the wider public. Whilst understanding the economic considerations put forward, the proposals would cause unacceptable permanent loss of green space of social and cultural value, which is conveniently located and well used.
- 12.29 The proposal would be in conflict with the local plan, which states that developments should not have an unacceptable impact on the rights of way network and other forms of public access to the countryside. A number of public rights of way across the site are formally identified by the Council, despite the lack of a definitive map; and a number of additional claimed public rights of way exist also. These rights of way provide links from the town to open access land on the mountain and also provide linkage with the Taff Trail below the site and the Coed Morgannwg Way above it. Even if rights of way were provided within the detailed form of development, these would have far lower amenity value than that of existing routes within the site.
- 12.30 The representations of other parties concerning the natural landscape, natural habitat and historical heritage qualities of the site are supported. This is a high quality, accessible local resource which is important to the area and its inhabitants for environmental, social, cultural, recreational and health reasons. Permission for the development proposals would mean the loss of this important resource.

Mr M Molloy [Doc OP 6]

- 12.31 Mr Molloy, a resident of Heolgerrig, opposes the proposed development. What Merthyr needs is a general sports and leisure complex, including a football stadium; however, this would be better situated on the town centre side of the A470.
- 12.32 The proposed selective recovery of coal from spoil tips is not economic. Furthermore, surface reclamation does not address the sub-surface dangers caused by old and abandoned mine workings. The proposed development would involve grouting of old mine workings, which may have water contamination, groundwater movement and flooding implications, as well as being extremely costly.
- 12.33 There are 5 million tonnes of high quality coal beneath the site, together with other deposits such as fireclay and building stone. The development would sterilise these reserves, which might well become an increasingly important national asset.

Mr J L Stansfield [Doc OP 7]

- 12.34 Mr Stansfield is a local resident and former Councillor. He objects to the scheme for a number of reasons.
- 12.35 He is opposed to coal recovery from the site. The site has previously been the subject of two failed bids for coal recovery, both of which were rejected on environmental grounds.
- 12.36 The site is an area of environmental and historical importance, to the extent that an alternative usage scheme based on the site's heritage status has been drawn up by the Rhydyar West Regeneration Partnership. The site has a wealth of heritage features, much of which would be destroyed for ever. The site is also highly important in ecological terms, as its various designations demonstrate. The ES wrongly evaluates the majority of the site as of "relatively low conservation value, comprising secondary habitats of low diversity typical of revegetated mining areas". There is little mention of the ancient woodlands and thousands of mature trees that would be destroyed, many protected by tree preservation orders.
- 12.37 Claims by the applicant that the site is unsafe and that its landscape character is poor, degraded and dominated by the unnatural forms of spoil tips are exaggerated and not borne out by the facts. Identified hazards and problematic areas account for only a very small proportion of the site as a whole. With the passage of time the spoil tips have been successfully assimilated into the landscape by natural recolonisation.
- 12.38 There are sites available for commercial, retail, leisure and residential development within the existing development boundary for Merthyr Tydfil [Doc CD2.1a *Proposals map*]. In addition, there are serious disadvantages to the provision of 1750 houses on a single site. It would place huge demands on community infrastructure. There are many brownfield sites available for smaller, more neighbourhood-friendly housing developments.
- 12.39 Merthyr is already experiencing an excess of out of town retail and leisure developments. Cyfarthfa retail park opened in 2005; the Trago Mills shopping and leisure scheme will open in 2007. These developments plainly put pressure on the town centre. They also have serious traffic congestion implications. It is plain that the town does not need and cannot sustain another major out of town retail complex.
- 12.40 The Council's elected members clearly ignored national and local policies in deciding to support these applications. Careful consideration should be given to the officer reports to members on these applications, and due weight given to their objectivity. Councillor Jones' evidence for the Council refers very selectively to parts of the officer reports. The officer conclusions and recommendations against the scheme are clear and unambiguous.

12.41 Whilst it is accepted that there are deep seated problems in Merthyr which need to be addressed, there is no evidence to support the assertion that any investor in housing would be significantly deterred by a decision to reject these proposals. There is no shortage of interest from house builders. Merthyr presently holds a number of advantages, with favourable price differentials, convenient sites, good transport links and proximity to the Brecon Beacons National Park. Recent new housing in Merthyr has quickly been sold.

Ms K Davies, British Horse Society [Doc OP 8]

12.42 Ms Davies is county access and bridleway officer for the British Horse Society. She objects to the proposal because it is contrary to the aims of prevailing planning policies to improve rights of way provision. The site is of considerable importance to local equestrians. Its rights of way can be accessed from bridleways and the Taff Trail without need to negotiate major roads. It gives direct access to the countryside and forestry beyond the site. The development would mean that horse riders would have to make their way through a new urban area on the west side of the A470 in order to reach the open countryside, and would deprive local horse riders, and walkers and joggers, of a valuable amenity area on the edge of the town. Loss of such a recreational asset would be contrary to the promotion of healthy exercise and enjoyment of fresh air.

12.43 Ms Davies has ridden the site in question for over 30 years. The applicant's engineer's evidence as to the stability of the site is exaggerated and does not accord with her own experience and knowledge of the site. It is also contrary to the assessment by the Council's head of engineering, whose report stated that the tips on inspection were safe.

12.44 With the right investment Merthyr could continue to improve as it has in the last three years, using sites within the town itself to meet the needs of the whole community rather than building virtually a separate new settlement and creating a "them and us" scenario. This might take longer, but the community would be prepared to wait rather than be robbed of its countryside and heritage.

Mr R Baker [Doc OP 9]

12.45 Mr Baker is a local resident. He objects to the development. The site lies in the main outside the prescribed settlement boundaries and in open countryside. The site has many trees that would be lost and has rich and varied ecology, wildlife and remains of the industrial past. Much greater value should be placed on all features on the site which are connected with the former Cyfarthfa ironworks. What is of value is not just the surviving artefacts but the landscape in which they are set. The proposed mitigation measures fall far short of compensating for the loss that would result from development, which would destroy many of the site's features. What Merthyr needs is not this development, but regeneration of Merthyr Tydfil town centre. That should be the prime focus of new investment.

Cllr A Baynham [Doc OP 10]

12.46 Cllr Baynham is personally opposed to the development. The development should not be allowed to proceed because it is completely contrary to the development plan and prevailing policy guidance. The development is really a further, disguised attempt to pursue opencast coal working of the site, which has been repeatedly rejected in the past.

13. WRITTEN REPRESENTATIONS

13.1 **Huw Lewis**, Assembly Member for Merthyr Tydfil & Rhymney, objects to the proposal [Doc WS 1]. Whilst acknowledging in principle that Merthyr needs investment, he is concerned that this development does not represent investment of the right sort to achieve the regeneration of the area. His concerns relate to the following matters:

- It is wrong to characterise the whole site as derelict.
- The large element of retailing would have a major impact on the town centre, in contravention of Assembly Government policy guidance.
- Welsh Water has indicated that the sewerage system would be overloaded.
- The transport implications for the strategic road network are a cause for concern.
- The scheme does not show evidence of robust public/private partnership and joint planning to ensure its successful realisation on the ground.
- The development is of such a scale as to render the development plan redundant.

The regeneration of Merthyr is an important issue. All investment proposals must be treated seriously. However, this does not mean that every investment proposal should be accepted regardless. Whilst this proposal may deliver some positive benefits, better alternatives could, and should be pursued. It is not robust enough to ensure that the claimed social and economic regeneration benefits will actually be delivered. In particular, the regeneration prospects for the town centre, crucial to Merthyr's sense of civic pride, would be damaged.

13.2 The **Diageo Pension Fund** owns the St Tydfil Square Shopping Centre in the town centre. It objects to the proposals, in particular to its retail provisions [Doc WS 2]. The town has a vulnerable economic base, and the town centre has recently suffered the effects of new out of town development with the opening of the Cyfarthfa retail park. The relocation of Tesco to the edge of the centre has reduced footfall through St Tydfil Square. The improved retail offer and environment of Cardiff is also a significant draw. The town centre is vulnerable to the effects of further substantial out of town retail development, and there is a serious risk that the town centre could become a secondary shopping area, offering only low quality shops and services. The proposals clearly conflict with national and development plan retailing policies, which seek to support and promote existing town centres. The proposal would discourage investment initiatives in the town centre through to 2014 and beyond.

13.3 The retail assessment on which the scheme is based is seriously flawed. It is not possible to estimate reliably the retail need and trade draw in connection with a proposal that will not commence trading until at least 2014. Despite assurances that the new retail provision will complement, rather than compete with, the retail provision of the town centre, there are no restrictions as to the type of retail occupier, other than a preclusion of food retailing. The estimation of trade draw from the town centre is highly optimistic; the trade draw analysis differs markedly from earlier studies, with no explanation. There is no substantive evidence that the retail element is essential to the viability or integrity of the scheme as a whole. The analysis of sequentially preferable sites has not considered the scope for disaggregation of the retail provision proposed. The economic benefits of the retail element, in terms of jobs provided, will not materialise until after 2012, and so should be attributed little weight as an argument for the retail development.

13.4 **Dwr Cymru/Welsh Water** draw attention to the considerable infrastructure provision implications of a scheme of this magnitude [Doc WS 4], and in particular the need for detailed assessment of the demands of the development and agreement as to any additional infrastructure required and the funding of this.

- 13.5 The **Welsh Development Agency** (WDA), whilst acknowledging that private sector investment on this scale and the jobs and new facilities arising should normally be welcomed, nonetheless expresses concern arising from the scale, nature and location of the proposal [Doc WS 5]. In relation to the phase 1 reclamation proposal, WDA comments that it is difficult to accept the view that the site is currently derelict, given the natural re-vegetation that has taken place and the significant quality backdrop to the town that the site now provides. The Agency is not aware of any major hazards or site remediation issues; a project rationale on the basis of reclamation need is unsustainable on anything more than a discrete part of the site.
- 13.6 The scale of retail and leisure development proposed is very substantial indeed, and WDA finds it difficult to see how this could not have an impact on the town centre. Concern is expressed at the lack of consideration of alternative, sequentially preferable sites better related to the town centre, and the lack of account taken of other recent and proposed major retail and leisure schemes in Merthyr in analysing the scheme's impact. Whilst it is acknowledged that there is under-provision of suitable quality housing land at present, there should be a systematic review of existing allocated sites before fresh allocations are considered. The scale of 1,750 houses proposed is questionable, given annual housing completion rates of less than 150 and an existing resident population of only some 42,000. The WDA is also concerned at the implications of the proposal for the existing 20ha strategic employment land allocation within the site. Merthyr's options are limited so far as the future supply of industrial land is concerned; it is therefore extremely important that this strategic allocation is preserved, if not extended.
- 13.7 The **Environment Agency** has submitted comments in response to the draft section 106 undertaking [Doc WS 21], reiterating its serious concerns about the loss of habitat and protected species. Although the Environment Agency has no objection in principle, it considers the proposal to involve habitat of high conservation value, and recommend that every effort is made to conserve or enhance it. Having regard to the Assembly Government's objectives for sustainable development the Agency remains concerned, should the development be permitted based upon the social and economic benefits involved, that an area of such value, once lost, cannot be mitigated for.
- 13.8 **Caerphilly County Borough Council** objects to the proposed development [Doc WS 14]. It is concerned at the inappropriateness of a large scale mixed use development in an out of centre location. The extent and nature of the retail component of the proposals are contrary to national and local planning policies. Caerphilly Council is particularly concerned that the retail proposals, if implemented, would undermine regeneration plans for town centres in the sub-region, including its own regeneration proposals for Bargoed town centre.
- 13.9 **Merthyr Tydfil Town Centre Partnership** objects to the proposed development [Doc WS 8]. Its concern is the harmful impact that this large scale development would have on the town centre. It also considers that the scheme represents excessive development of an area that has largely re-vegetated and which would destroy an area of natural woodland. There is also concern that the development might turn out to be purely a coal recovery operation.
- 13.10 The **Cyfarthfa Branch Labour Party** objects to the development [Doc WS 10]. It repeats points made by others relating to conflict with development plan policies, local action strategies and national policy guidance; to the status of most of the site as open countryside; to the ecological, historical, archaeological and landscape value of the site; and to the implications of the development for the town centre, the Council's town regeneration strategy, employment land availability and transport matters.

- 13.11 **Merthyr Tydfil Biodiversity Partnership** and **Swansea Friends of the Earth** support the evidence provided by CCW and the Wildlife Trust of South and West Wales [Docs WS 15 & WS 16]. The **Glamorgan Moth Recording Group** raises concerns that the survey of moth species present on the site carried out for the applicant was insufficient, in terms of the seasonal duration/number of occasions of the survey and the number of trapping sites used [Doc WS 3]. Insufficient attempt was made to identify micro moth species caught. The number of moth species present thus has been underestimated. Turning to mitigation measures, it is considered that attempts to translocate adult moths and larvae to other parts of the site would be likely to involve the initial creation of unsustainably high populations at the new site. The initial population size at new sites would quickly reduce to levels that the areas of retained habitat would probably have been able to support before intervention. There would thus be little effective compensation for habitats lost to development.
- 13.12 Objections were also submitted as written representations from the following residents in the area: **D and K Morgan and Mr & Mrs B Williams** [Doc WS 6]; **Mr A C Cousins** [Doc WS 7]; **Miss A Chaplin** [Doc WS 9]; **Mr R H Davies** [Doc WS 12]; **Mrs J Flower** [Doc WS 13]. The substantive points raised in these representations concern matters covered in the evidence of other parties as summarised in this report, and so are not repeated here.
- 13.13 **Dr W Manser** raises concerns about a right of access to land in his ownership [Doc WS 11]. However, such private rights are civil matters between the parties concerned, and are not material to consideration of the planning merits of the development.
- 13.14 Turning to the supporting representations, **Ms B Misselbrook, Mr D Evans and Mr M A Short** have agricultural tenancies over parts of the site. Ms Misselbrook [Doc WS 18] recounts her first hand experience of the safety issues associated with the site, the progressive increase in groundwater levels that have taken place in recent years and the associated difficulties of running a viable agricultural holding on the site. She refers to a number of incidences of surface subsidence and spoil tip slippage, and to incidents of harm to animals and livestock; to the increasing wetness of the land since the 1970s. Ms Misselbrook also refers to the difficulty of reconciling the terms of the CCW licence conditions on use of the grassland within the Lower Cwm Glo SSSI with maintaining a viable farming operation on the tenancy as a whole. Mr Evans [Doc WS 19] is a tenant on approximately 52.6 ha (130 acres) of the southern part of the application site, grazing up to 80 cattle and some ponies. He has experienced worsening surface water conditions since the construction of the new stretch of the A470. In addition, sink holes frequently appear and deepen over time and there are two areas of tip instability. These factors are making it very difficult to maintain a viable enterprise. Mr Short, who has had his tenancy for 7 years, provides corroboration of Mr Evans' views [Doc WS 20].
- 13.15 **Ms C Jones**, a Merthyr resident, provides details of some research she has done to establish the views of young people in the Merthyr area on the proposed development. Of those consulted, 183 (86%) were in favour of the proposal, and 32 (14%) against [Doc WS 17].
- 13.16 In addition many representations were made to the Council at the time of its consideration of the two applications, prior to the NAW's decision to call in the applications for its own determination. These third party representations and other consultation responses are listed and summarised in the officer reports on the applications to meetings of the Council in 2002 and 2005 [Doc CD5.1, sections 5 & 6 and Doc CD6.6, sections 6 & 7].

14. CONDITIONS AND OBLIGATIONS

14.1 The applicant and the Council have entered into a section 106 agreement dated 14 July 2006, which obligates the parties in respect of a wide range of matters in the event that planning permissions are granted in respect of applications P/02/0060 and P/02/0260 [Doc 9]. The agreement will take effect only in the event of planning permission being granted for both the Phase 1 and the Phase 2 proposals. In order to ensure that its provisions are coherent in relation to the subsequent implementation of the permissions and their timing, certain clauses are designed to take effect on the date of the grant of the planning permissions. Others are conditional upon the Phase 1 permission being implemented, whilst some would take effect on other terms specified within the deed (see para 5.1).

14.2 In summary, the section 106 agreement contains provisions covering the following matters:

- Phasing of elements of the Phase 2 proposals and notice of implementation/occupation
- Restrictions on use in relation to the retail, leisure and hotel elements of Phase 2
- Use of financial contributions only for the planning purpose stated
- Affordable housing provision
- Primary, special educational needs and secondary education provision
- Emergency secondary access/secondary vehicular access
- Roundabout and junction improvement works, public transport and footpath link works
- Children's play space and playing fields provision
- Environmental management plan provision/implementation
- Habitat creation scheme
- Habitat management plan
- Species mitigation plan
- Landscape masterplan
- Archaeological mitigation strategy
- Provision of professional ecologist, landscape architect and archaeologist services
- Provision of heritage and environmental centre facility
- Foul and surface water assessment and infrastructure provision
- Health centre, library and kerbside recycling facilities
- Establishment of trust body in association with the development

14.3 The section 106 agreement is complex and multi-faceted. This is not surprising, given the scale and scope of the development proposed by the two applications. I return to particular aspects of the obligations in my conclusions later in my report. However, I consider that the matters which the agreement addresses satisfy the tests for planning obligations set out in Circular WO 13/97. In particular, the requirements contained in the agreement are directly related to the development in question, and are directed at ameliorating the land use planning impacts of the development.

14.4 Because of the complexity of the section 106 agreement, the need for all parties with a qualifying interest in the land to be a party to it, and the need for the Council's elected members to ratify its final terms, the agreement was not completed until after the close of the inquiry. However, its draft provisions were discussed during the inquiry and the final document does not differ substantively from the draft provisions as discussed. The agreement was submitted within the additional timescale which I indicated at the close of the

inquiry for submission of the completed document. I have accordingly taken it into account in my assessment of the merits of the proposals.

- 14.5 Since submission of the executed agreement there has been a further minor amendment, in an effort to address errors in terminology at sections 26.2 and 26.5 of the document and the potential for confusion arising from this [Doc 10].
- 14.6 As indicated, the agreement is constructed on the basis that it will have effect only in the event that planning permission is granted in respect of both applications. This means that if it were decided that planning permission should be granted in respect of application 020060 (phase 1) alone, none of the provisions of the present section 106 agreement would take effect. In the light of this the Council has requested that, should the decision maker be minded to determine the proposals in this way, an opportunity be given for further representations from the parties on this matter before any decision is formally taken.
- 14.7 Consideration was also given during the course of the inquiry to the conditions it would be necessary to impose if permissions are granted. The Council's draft schedules of such conditions and the reasons for their imposition were the subject of discussion and comments from the other parties during the inquiry. The Council subsequently produced revised schedules of suggested conditions and reasons which took on board the observations of the other parties [Docs 11(i) & 11(ii)]. Consequently, there are no outstanding substantive matters of dispute concerning the form and content of conditions.
- 14.8 I have considered the form and content of these suggested conditions in the light of the observations and responses of the parties and in the light of the relevant circular guidance (Circular WO 35/95). In the main, I consider that the conditions deal with matters which would need to be addressed if permissions are granted. However, I consider that a number of further changes to the proposed conditions should be made, in order to give greater precision and clarity as to their requirements; to avoid needless overlap between individual conditions or unnecessary duplication of the provisions of the section 106 agreement; and to simplify and rationalise each list of conditions as a whole, by combining the provisions of a number of conditions dealing with the same matters into a single condition.
- 14.9 In addition, I consider that the conditions suggested by the Council relating to the following matters should not be imposed, for the reasons indicated:
- Planning application Ref. 020060 (Phase 1)* [Doc 11(i)]
- Conditions 3 & 14 (Minerals extraction, etc.): Unnecessary, as they concern matters and processes which would not be permitted by the permission granted in any event.
 - Condition 5 (Inspection of plans etc.): Not appropriate as a condition; not necessary to the grant of permission.
 - Conditions 38, 39 (Highways junction improvements): Not necessary to the grant of permission for the Phase 1 development.
- Planning application Ref. 020260 (Phase 2)* [Doc 11(ii)]
- Condition 10 (Licences in respect of protected species): Not necessary as a planning condition: merely states provisions of other legislation.
 - Condition 21 (Liaison Committee): Whilst a useful proposal, not necessary to the grant of permission as a planning condition.
 - Conditions 39, 40 (Parking requirements): Not necessary at outline stage; can be the subject of conditions attached to reserved matters approvals if necessary.
 - Conditions 42, 43 (Oil/chemical/fuel storage, Oil interception): Not necessary as conditions on the outline permission; can be imposed on reserved matters approvals, where appropriate.

14.10 The conditions which I consider should be imposed in relation to the phase 1 and phase 2 developments if permissions are granted are set out in the Annex to this report.

15. CONCLUSIONS

Introduction

- 15.1 My conclusions first of all deal with procedural matters concerning the form and substance of the applications submitted to the Council, and the implications of this for the Assembly Government's consideration and determination of the proposals and for the effectiveness of the section 106 obligation entered into by the applicant if permission is granted in respect of one or both applications.
- 15.2 I then set out my conclusions as to the visual and environmental implications of the proposals, followed by my assessment of their conformity or otherwise with the provisions of the development plan. I next set out my findings as to the merits of the proposals in relation to national planning policy guidance and relevant guidance in Circular WO 60/96 Planning and the Historic Environment: Archaeology. This is followed by my conclusions concerning the Wales Spatial Plan, the consultation document "Heads – We Win..." and other material considerations. I then move to my overall conclusions as to the acceptability or otherwise of the proposals, in the light of the development plan and all other material considerations.
- 15.3 The italicised references in brackets indicate the earlier sections of the report, together with any specific additional document references, on which my conclusions are based.

Procedural matters relating to consideration and determination of the proposals

- 15.4 There are two separate planning applications before the National Assembly for determination. As such, a decision must be taken in relation to each application; and each application must be determined on the basis of its own merits.
- 15.5 However, the two applications are closely inter-related. They represent two phases of a single overall development scheme [2.2-2.5]. Indeed, the submission of the scheme as two separate applications rather than as a single proposal was a result of pre-application discussions with the Council, and was not instigated by the applicant. The primary purpose of the phase 1 proposal for "reclamation and landscape restoration...including tip re-profiling" is to create a landform on the site which is suited to accommodate the large-scale development proposals which are the subject of the phase 2 application. The coal recovery by washing from selected spoil tips is an ancillary operation which is incidental to the primary land re-profiling works. There is no suggestion that the coal recovery operation would be pursued other than as an incidental activity alongside the overall land re-profiling proposal, or that the coal recovery process would be economically viable as a stand-alone operation.
- 15.6 Similarly, it is plain that the proposed phase 2 mixed use development of the site could not proceed without the preliminary physical works to the land comprising the primary element of the phase 1 proposal.
- 15.7 Turning to consideration of the planning merits of the two applications, much of the justification put forward for the phase 1 proposals relates to the claimed benefits of the phase 2 mixed use development which would follow. Similarly, in evaluating the overall merits of the phase 2 development proposals, the effect of the phase 1 works on various features of the

site forms part of the overall assessment of the impact of the development scheme and the weighing of harm against benefits in terms of judging the acceptability of the development.

- 15.8 Therefore, whilst each planning application requires a determination, the nature and interrelationship of the two applications is such that they are logically best considered together, as linked, sequential phases of one overall scheme, and not in isolation. The evidence relating to the two applications was thus examined concurrently during the inquiry, and is also considered concurrently here in my conclusions, with clarification as necessary to indicate where certain matters are particular to either the phase 1 or the phase 2 proposals as appropriate.
- 15.9 The linked nature of the two applications is reflected in the section 106 agreement between the applicant and the Council [Doc 9]. This is a single document, which would take effect in the event that planning permissions are granted in respect of both the phase 1 and the phase 2 proposals and containing a series of obligations that would variously apply in relation to the implementation of either phase of the development, as appropriate. The document has been drawn up in this form in anticipation that the National Assembly shares the view outlined above as to the correct approach to considering and determining the two applications.
- 15.10 Notwithstanding the relationship between the two applications, it is possible that the National Assembly may determine that the individual planning merits of the two applications are such that permission should be granted for the phase 1 development but not for the phase 2 proposal (it is not logically conceivable that the reverse should be decided, since the development operations comprising phase 2 are founded on the landform altering operations which essentially comprise the phase 1 development). If this were the case, an agreement in different terms would be necessary, triggered by the grant of permission for the phase 1 development alone and covering only those matters relevant to implementation of the phase 1 development, in order to secure the relevant provisions within the present agreement. The applicant and the Council have requested that the National Assembly give the opportunity for further comment on this matter before a decision is made should it contemplate this course.

Visual and Environmental Implications of the Proposals

Visual Effects

- 15.11 The site essentially comprises an extensive hillside area, partially wooded and partially open in appearance, which forms part of the slopes of hillside and mountain enclosing the built-up area of Merthyr Tydfil [3.2-3]. Based on the visual assessment in the ES documents, the landscape evidence to the inquiry and my own appraisal of the site and its surroundings I consider that the site is particularly perceived in this context from upper parts of the eastern areas of Merthyr Tydfil and the upper reaches of the A4060 towards Dowlais Top, although recent roadside tree planting will reduce views from the latter over time. At closer range, the main views are of the lower parts of the site from the adjacent A470 and across the site from higher vantage points in the vicinity of Heolgerrig.
- 15.12 In the main, the site provides an attractive rural setting to the town in this location, in large part due to the mosaic of areas of native broadleaved woodland and other semi-natural habitats, which lie between the built-up area and the higher mountain and afforested slopes beyond. Although there are extensive areas of deposited spoil from former mineral workings and more recently from construction works to improve the A470 route, which are identified as derelict and unsightly land in the local plan, much of these areas, especially where resulting from older mineral workings, has been colonised by trees and other vegetation and so largely assimilated back into the surrounding landscape [3.8].

- 15.13 The phase 1 proposals would involve cut operations carried out to current ground levels over much of the area designated as derelict and unsightly land area DL9 which occupies much of the lower, eastern sector of the site running parallel to the A470, together with the spread of excavated material across adjoining areas. A similar process would occur in relation to a small part of derelict and unsightly land area DL8 and to adjoining land on its south-east side [6.1-2; Docs 5/CD6.3].
- 15.14 The plateaux that would be created by the phase 1 proposals would exist in their initial bare form only until occupied by the phase 2 development (if also approved) and associated landscaping, and thus would have only a short-term visual impact during this transitory period. However, the extent and nature of the phase 1 operations would result in the wholesale alteration of large swathes of the existing landform, together with the removal of extensive areas of existing woodland including significant areas currently protected by tree preservation order, to form large plateaux on the lower eastern and southern parts of the site. The visual impact of this approach upon the character and appearance of the site would be considerable and would include parts of the site which in my judgement have significant visual landscape amenity value, including significant wooded areas close to and prominently seen from the A470.
- 15.15 The phase 2 proposals would result in built development covering much of the site, apart from its southern and south-western margins and the northern/north-western sector, largely occupied by the Cwm Glo SSSI and open access land [Appendices 1 & 2 of Doc CD6.8]. Even though the elements of built development could be assimilated to some extent into their surroundings by retaining some woodland not already lost to the phase 1 development and by new tree planting, the phase 2 development would have a major visual effect.
- 15.16 It is inevitable that a large scale development proposal on land currently undeveloped in character and appearance will have a noticeable impact [7.36]. However, I consider that the visual impact of the phase 2 development in the landscape would be accentuated by the scale of the proposed retail, leisure and commercial/business elements on the large level plateaux created by the phase 1 proposals, and by the extent to which the higher parts of the proposed residential development would extend as a prominent salient of built development up the hillside, poorly related to the overall settlement form of the locality. Although a part of the lower area of the site is allocated for special regional employment use [Doc CD2.1a Proposals Map], the magnitude of commercial/business use development currently proposed on the lower part of the site and the size of plateau landform proposed to accommodate it is much greater than would result from the local plan allocation.
- 15.17 Much of the land which would be developed is designated in the local plan as a landscape protection area [11.26]. Although this is a non-statutory designation, and applies to almost all of the land surrounding the built-up limits of Merthyr Tydfil, I consider that it does highlight in this case an area of the valley sides which, overall, provides an attractive rural setting and backdrop to this part of the town. I conclude that the proposals under consideration here would have a significant visual impact upon the land and that in respect of the particular matters I have identified concerning the nature and extent of the phase 1 works and the scale and location of certain elements of the phase 2 proposals, the development would have an unduly harmful visual impact on the landscape.

Ecology, Wildlife and Habitats

- 15.18 Despite the fact that a significant proportion of the site is designated in the local plan as derelict or unsightly land, the site predominantly comprises a broad mosaic of woodland and open semi-natural habitats. These include examples of 7 UK Biodiversity Action Plan (BAP) priority habitats, together with examples of 5 EC Habitats Directive Annex 1 habitats, which collectively cover a large proportion of the application site [3.8-9; *Doc CCW12*]. These habitats support a wide range of species, including the great crested newt; at least five species of bat; and notable communities of Waxcap and other fungi [3.11; 10.22-28]. Further evidence of the habitat and nature conservation value present at the site is provided by the extent of the existing SSSI and SINC designations, together with the existence of further areas currently being considered as candidate SINCS [3.10, 12.14]. Although the latter areas do not have SINC status, and should not be regarded as if they have [7.80], the fact of their identification for consideration, their considerable size and the information currently available concerning their nature conservation interest supports the survey evidence of CCW [10.17-10.20] and the evidence of local nature conservation groups [12.13-27] as to the habitat and bio-diversity value of the site as a whole.
- 15.19 Although the applicant questions details of the CCW assessment of woodland habitats present on the site, I consider that its habitat analysis is sufficiently sound and robust to be relied upon as an essentially accurate picture of the site [*Doc CCW 12, 10.20*]. The full significance of the site in terms of its areas of mycologically rich grassland is difficult to evaluate, primarily because of the rather patchy existence of survey data for fungi habitats across Wales as a whole [7.89-90]. However, the available evidence indicates that the areas of mycologically rich grassland are noteworthy, containing a relatively high number of species, including some of recognised scarcity [10.22-25]. This represents an additional dimension of the ecological and biodiversity significance of the site.
- 15.20 The evidence concerning habitat for otters within the site [12.24] is not robust. Although it points to the existence of otters in the wider locality, it does not demonstrate active use of the site by otters [7.78]. There is no recent confirmed evidence of the Marsh Fritillary being present on the site [12.18]. Although there is one recorded sighting of a single adult specimen in 1994, recent surveys have not found adults on the wing or the presence of larval webs. Notwithstanding these matters, however, the evidence of local wildlife groups and enthusiasts overall [11.14, 12.13-21] reinforces my view that the site is of considerable value in terms of the range and nature of habitats present, the size of area involved and the fauna and flora present.
- 15.21 Comparison of the phase 1 proposals [*Doc CD6.3*] with the habitat survey information produced by CCW [*Doc CCW 12 Maps 2 & 3*] shows that there would be destruction of significant areas of BAP priority/Annex 1 habitat within the areas identified as subject to reduction of existing ground levels or the deposition of excavated material. Much of this priority habitat area also comprises a significant part of the Cwm Pit & Cwm Woods SINC [12.14 & *Doc CD6.6 Appx 2*]. The phase 2 development would encompass large parts of the site in addition to the areas of the phase 1 works; a similar comparison exercise demonstrates that this would include further substantial areas of BAP priority/Annex 1 habitat. Even with the exclusion from the development area of the Cwm Glo SSSI, the upper part of the existing open access land and the land around the south-eastern/southern margin, the majority of the areas of habitat and wildlife interest within the site would be within the identified phase 2 development footprint. The extent of the phase 1 groundworks, the general location of the elements of the phase 2 proposals and the amount of built development proposed lead me to conclude that significant retention of areas of habitat importance within the detailed development layout would be unlikely. Moreover, any such areas retained in this way would

be more isolated from other areas of semi-natural habitat and more vulnerable to human pressures.

- 15.22 Overall, the proposals would result in the loss of significant areas of existing semi-natural biodiversity priority habitat [10.19, 12.15-16]. This is acknowledged by the applicant [7.81]. The resulting effect would be to substantially diminish and fragment an area of scarce lowland habitat types which is particularly important because of its size and consequent ability to maintain a viable host environment for individual species populations [10.17-19].
- 15.23 For the applicant it is suggested that scarce and notable species would be rescued and translocated, and that this would mitigate the adverse effects of development [7.83]. However, there is no detail as to which or how many species or which habitat areas might be translocated, other than that concerning great crested newts, or which locations might act as a receiver. Successful translocation of a particular species would require the existence of a suitable host habitat elsewhere within the confines of the site, not required itself for development purposes. Moreover, this does not compensate for the loss and fragmentation of priority habitat area that would occur. The suggestion that habitats may be lost in any event because of changing ground conditions and possible future undergrazing [7.82] is largely speculative [10.21], and does not amount on its own to a good argument for the wholesale built development of much of the site.
- 15.24 Notwithstanding that some areas of mycologically rich grassland are found within the SSSI, there would be a large-scale loss of areas of mycologically rich grassland which are outside the SSSI and lie within the proposed phase 1 workings and the phase 2 development area. Translocation of these habitats and species is not a practical option. [10.22-28, Doc CCW 32].
- 15.25 The section 106 agreement proposes an ecological management plan, together with a habitat creation scheme, habitat management plan and species mitigation plan [Doc 9]. However, the starting point for work on these matters would be the existence of planning permissions for the phase 1 land reprofiling operations and for the phase 2 development along the lines of the indicative site plan submitted as part of the application. Given the extent, intensity and variety of areas of habitat value across the site and the nature and extent of development proposed, I do not consider that the provisions of the section 106 agreement in this respect would prevent loss of large areas of significant habitat and biodiversity importance.
- 15.26 As the SSSI has been taken out of the area to be developed, the development proposals would not have a direct impact upon it. However, the SSSI represents only a relatively small part of the overall nature conservation importance of the site. Exclusion of this area from the area for development falls far short of addressing in full the habitat protection issues which the development proposals raise. The argument that the development proposals would be a positive benefit to the SSSI [7.84-7.88] is unconvincing. The agricultural tenant evidence concerning agricultural viability and undergrazing [Doc WS 18] was not open to cross-examination. The SSSI status of the land enables agreements to be put in place designed to safeguard its special interest; and I consider it reasonable to assume that CCW would exercise its statutory responsibilities in relation to this in a responsible and effective manner [10.16]. Moreover, the prospect of the underwriting of a long-term grazing regime at the site must be viewed in the context of a loss of large areas grazed at present, as a result of the proposed built development. I therefore do not regard the management plan provisions of the section 106 agreement in relation to the SSSI as providing any overall benefit.
- 15.27 Although no development is proposed within the SSSI, it is likely that the residential development proposed close to the boundary of the SSSI would result in increased casual

recreational use by those living close to the land and an increased use by domestic animals [10.14-15]. Whilst it is the case that there is existing development at Heolgerrig on the north side of the SSSI, the effect of the proposals would be to surround the SSSI on 3 sides by predominantly residential built development. This would intensify the pressure of informal domestic-related activity in the locality whilst simultaneously making the SSSI a more likely focus of such activity, as adjacent areas are lost to development. In addition the increased separation of the SSSI from neighbouring areas of habitat would lessen its ability to recover from damage to its vegetation by recolonisation from adjacent areas, making it more vulnerable [10.14]. Although the section 106 agreement provisions would enable measures to be devised to regulate access to the SSSI [7.88], this might well prove difficult in practice, given the existence of claimed rights of way across the SSSI and the status of its upper part as open access land. I conclude overall that the proposed development would, because of these likely indirect effects, have negative consequences for the SSSI.

15.28 Turning to protected species, the site supports a number of ponds used by great crested newts for breeding and associated areas of habitat for foraging and shelter. Although the survey evidence does not demonstrate the existence of a newt metapopulation occupying the network of ponds across the site [7.93-98], the site provides a large amount of terrestrial habitat in addition to the pond habitats identified [10.29-32]. Mitigation measures are proposed which would replace 3 ponds lost as a result of the development with 10 new ponds providing a significantly greater amount of superior new pond habitat in other locations [7.97].

15.29 However, I consider that the concerns raised by CCW relating to loss of terrestrial habitat, the poorer connectivity between different elements of newt habitat in the resulting disposition of land use across the site and the extent and duration of the development proposals are valid [10.29-10.32]. In particular, I consider that the submitted newt mitigation proposals [Doc MV 6B Plan 6 & 6E] do not provide for a sufficiently coherent, robust and interconnected arrangement of pond and terrestrial habitat between the new ponds and retained terrestrial habitat on the south-western margin of the phase 2 development area and ponds "P9" and "Bell Pit"; and between these two ponds and the ponds within the open access land to the west. Even though the section 106 agreement would require more detailed measures to be agreed before any development works commence, I consider that the land take of the residential development proposals in phase 2 would prevent this matter being adequately resolved. Because of this I do not regard the proposed mitigation strategy for the great crested newts as sufficient to demonstrate that their favoured conservation status on the site would be maintained.

15.30 The bat surveys of the site [Docs MV 6C, MV 6D] show very limited direct evidence of roosting on the site [7.99]. The areas of highest potential for tree roosting [Doc MV 6C section 5.1.4 & Plan 3] do not show direct evidence of use as roost sites and in any event lie outside the area of the phase 1 works and the phase 2 development footprint. The proposed mitigation measures would be designed to retain tree cover within the site as foraging corridors and roost sites for tree roosting species. The development would also provide new potential locations for bat roosting.

15.31 The primary importance of the site in bat terms is in terms of its use for foraging and commuting. The phase 1 and phase 2 developments would result in the removal of a significant amount of existing native broadleaved tree cover, together with areas of woodland/field margin. No detailed scheme showing how these areas would be replaced so as to maintain the foraging capacity of the site and likely commuting routes has yet been produced [10.33-35]. The indicative plan produced late in the inquiry showing a potential

mitigation approach [Doc MV 14] has not had the benefit of detailed scrutiny or appraisal. Accordingly, I conclude on this matter that whilst there appears to be potential to produce a mitigation strategy for bat species present on the site sufficient to ensure that they are maintained at a favourable conservation status in their range, a detailed strategy has not been prepared at this time which demonstrates this, although the section 106 agreement would require this before development commenced on the site.

15.32 In summary, therefore, I conclude on the foregoing matters that the site is one of high habitat and biodiversity value, and that this would be seriously diminished by the phase 1 and the phase 2 proposals. Although the SSSI would not be physically affected by either phase, the residential development proposed would, because of likely associated indirect effects, be likely to have a negative effect on the well-being of the SSSI in the longer term. The proposals would not maintain the favoured conservation status of great crested newts on the site; and insufficient detail has been provided at this time to demonstrate how the favoured conservation status of bats within their range would be maintained. Overall, the ecology, wildlife and habitat value of the site and the locality would be significantly diminished as a consequence of the development proposals. This is a material consideration which carries significant weight in assessing their overall merits.

Historic landscape and archaeology

15.33 The site lies within the Merthyr Tydfil Landscape of Outstanding Historic Interest, which also encompasses the town itself and other parts of the extractive landscape on which its industrial past is founded [3.5, 7.58]. The iron-making history of Merthyr and the associated economic, social and cultural development of the town and its inhabitants is a story of national and wider significance [9.16, 10.5]. The site is an important part of the surviving industrial landscape [9.16-9.18, 9.45-9.47, 10.4-10.5]. It comprises a large part of the extractive landscape within the area of the Cyfarthfa lease, on which the development of the Cyfarthfa Ironworks was founded. Moreover, it is notable for the long period of extractive activity which took place and for the number and range of archaeological features present, reflecting significant changes over time in methods of extraction and transportation [9.17, 10.4]. The West Merthyr Historic Landscape Study documents and interprets the different phases of industrial activity and the associated surviving point and linear features in different areas of the site as 4 distinct "zones of articulation and coherence" [9.18]. Whilst this approach is not derived from any government or statutory guidance or policy framework, it is nonetheless a useful way of appreciating the coherence and significance of the historic landscape and the interrelationship between features within it.

15.34 I recognise that development in recent years such as the new route of the A470 has inserted itself between the site and core elements of the Cyfarthfa Ironworks site and Cyfarthfa Castle [7.73]. However, this does not diminish the significance of the historic link; and the evidence of local people to the inquiry [11.18-22] indicates that the historical associations of the site are understood and appreciated more widely than asserted.

15.35 Taking all of the evidence to the inquiry on this matter, I conclude that the application site, by virtue of its size, its relationship to former Cyfarthfa Ironworks and the unusual concentration of well-preserved archaeological sites and features which it contains, forms a significant and important part of the Merthyr Tydfil Landscape of Outstanding Historical Interest contained in the Register of Historic Landscapes.

15.36 Differing evidence was presented to the inquiry as to the extent of impact of the proposed development on the historic landscape and on individual archaeological features [7.68-72;

9.24-33; 10.12]. However, even allowing for the fact that the phase 1 application drawing is labelled “schematic”, despite the nature of the application as one for full planning permission, it is plain that the phase 1 proposals will result in the destruction of the archaeological features and historic landscape character of the site within all of the areas where ground levels are cut; and the burial of archaeological features and destruction of historic landscape character within the areas where excavated material is spread as part of the plateau-forming operations. Even allowing for “fine-tuning” of the precise boundaries of the working area, as suggested by the applicant, the phase 1 operations would result in the erasure of the existing landform across a large swathe of the eastern and southern parts of the site, encompassing areas containing a large number of significant archaeological features which would be removed or buried in the process. In addition to the damage to the historic character of the site caused by removal/burial of archaeological features, the large plateau landforms created by the phase 1 works would be seriously at odds with the grain and scale of the existing landscape and would also detract from its historic character.

- 15.37 For the applicant it is argued that the condition of the existing tips and ground subsidence issues mean that tip re-profiling and other works are necessary for safety reasons [7.76-77]. However, the areas of instability identified by the applicant [Docs MV 3/3A] are comparatively limited and the extent of any immediate threats to safety relatively small and localised [13.5]. In my judgement the remedial works asserted to be needed [Doc MV 3A 6] are overstated by the applicant and in any event are relatively small and localised in comparison to the scope of the proposed phase 1 works. Although emergency remediation works might result in the loss of archaeological features, I do not regard the present need for such measures or the extent of substantive evidence pointing to a need for emergency works as lending significant weight to the argument for the phase 1 development.
- 15.38 It is difficult to establish the precise extent of impact of the phase 2 proposals on archaeological features, because of the outline nature of the development. However, in addition to the destruction or burial of archaeological features as a consequence of the phase 1 plateau formation operations, the phase 2 footprint of built development would extend over a still much greater area of the site. It is now argued that the detailed layout of development within the site would be designed so as to reflect the key historical features of the site, for example by the layout of road routes or other lines of movement through the site along the lines of former tramways or railways, and seeking to preserve important archaeological features such as the Cyfarthfa Canal Level Scheduled Ancient Monument (SAM) in situ together with their settings [7.72, Docs MV 5B, MV 14].
- 15.39 However, there is nothing about the phase 1 proposals or the phase 2 development indicative site layout that suggests any meaningful attempt to assess and analyse the historical features of the site and adopt an approach to development which seeks as far as possible to protect identified important features and their settings. The layout approach defined by the indicative site plan 013045-10-21 P2 does not attempt to accommodate or reflect the pattern of historical features present on the site. Attempts to rectify this by “fine tuning” in the manner suggested by Doc MV 14 would achieve only limited mitigation and would not prevent extensive and severe damage to the archaeology and historic character of the site arising from the combined effects of the phase 1 and phase 2 proposals.
- 15.40 Of the 2 scheduled ancient monuments within the site, the Cwmdy Air Shaft and Fan SAM would remain on open land beyond the western limit of the proposed housing development. However, part of the nearby Cwmdy spoil tips would be removed as part of the development and replaced by housing development on the levelled area. There would thus be some adverse effect on the setting of the ancient monument.

- 15.41 The Cyfarthfa Canal Level SAM comprises two sizeable elements of canal remnants, some 50m apart. Although the map produced during the inquiry relating the areas of the phase 1 proposals to principal archaeological features show the proposed area of working as narrowly avoiding the scheduled monument [*Doc MV 5B (iii)*], this map is unreliable. It represents the two scheduled elements of the former canal as points on the map, whilst in fact they are much more extensive areas than shown [*Doc CADW 5*]. Proper comparison of the scheduled areas, which I was able to identify on the ground, with the identified area of phase 1 working indicates that a large part of each scheduled area lies within the area where existing ground levels would be cut. I conclude that the scheduled areas could not be retained in their entirety without substantial change to the phase 1 proposals as presently indicated in this location.
- 15.42 Furthermore, the phase 2 indicative site plan drawing 013045-10-21 P2 clearly shows the scheduled areas in a location to be occupied by the proposed retail buildings and associated car park. Even allowing for the indicative nature of these drawings, the broad form of development proposed in this location would necessitate significant changes to the existing surface landform in the vicinity of the scheduled ancient monument in addition to the works identified as part of the phase 1 proposals. Coupled with the nature and the extent of the phase 2 development which would surround the scheduled monument, I consider that even if a practical way were found of retaining the scheduled remains, they would be left as isolated elements stripped of any meaningful context. The proposals would thus destroy the setting of the scheduled monument even if a practical means of retaining the scheduled remains themselves were found.
- 15.43 Moreover, there are numerous other significant archaeological features, including linear features, particularly in the south-eastern part of the site where most of the large scale phase 1 earth-moving works and the large-scale components of the phase 2 development are proposed [*9.31*]. These include other surviving sections and features of the canal, Lower Colliers reservoir and the site of Lower Colliers Row/Terrace, and other reservoirs, feeder leats, railways, inclines and tramways. The phase 1 and indicative phase 2 proposals show no meaningful attempt to retain these features or the coherence of the historic features of the landscape. As proposed, the development would result in large-scale loss or burial of archaeological features on the site, seriously compromising its historic interest and character [*9.25-9.33*].
- 15.44 Although some archaeological mitigation is now proposed, through conditions and the provisions of the section 106 agreement, this is a belated attempt to preserve archaeological features within the framework of a largely pre-determined development proposal. It falls far short of a properly analysed appraisal of the historic landscape and the significance of its surviving components, used to inform consideration of an appropriate development approach. The archaeological mitigation proposed would be unlikely to amount in practice to much more than the retention of the most significant archaeological features of the site as isolated remnants, lacking context or coherence, together with some of the lines of former linear features echoed by the alignment of modern thoroughfares. In my judgement this would be no more than a token, and wholly inadequate, response to the archaeological and historical significance of the site. I do not regard other considerations put forward as benefits of the development, such as recording of features prior to loss or burial, greater public accessibility to and interpretation of those features retained, the proposed contribution to an interpretive heritage facility, or the possibility of further deterioration of the archaeological features on the site if the development proposals are not permitted, as sufficient to alter my conclusion that the proposed development would be seriously detrimental to the archaeological character and integrity of the site.

- 15.45 The ASIDOHL originally undertaken on behalf of the applicant in 2002 was replaced by a new ASIDOHL in 2005, reflecting changes to the development master plan and to guidance concerning the ASIDOHL process. The new ASIDOHL has subsequently been revised to remove an error concerning the identification of the different historic landscape character areas (HLCAs) within the site [Doc MV 5A].
- 15.46 The ASIDOHL undertaken on behalf of the applicant is roundly criticised by CCW [10.4-10.9]. The counter-criticism on behalf of the applicant that the evidence of CCW's witness on this matter reflected an extreme view on the principle of change to the historic landscape [7.63] is to some extent justified. However, this does not disturb my assessment that the ASIDOHL is based upon an insufficiently thorough analysis of the historic features of the landscape and their historical significance. In my judgement, based upon the overall balance of all of the evidence as to the significance of the site as part of the Merthyr Tydfil Landscape of Outstanding Historical Interest and the impacts which the phase 1 and 2 developments would have upon it, the ASIDOHL significantly underestimates the severity of the effects of the development on HLCAs 14 and 70. These effects include the consequences for comprehensive and nationally important groups of structures and systems forming key parts of the extractive landscape and the physical and visual effects of the development upon the character of the historic landscape.
- 15.47 I do not find convincing evidence to support the suggestion that the effects of the development might be so damaging as to lead to the removal of the entire Merthyr Tydfil registered landscape from the register [10.10]. However, this does not alter my conclusion that the proposed development would have a highly severe adverse impact on the Merthyr Tydfil registered historic landscape and on the important archaeological features within it.

Conformity with prevailing policies

The development plan

- 15.48 In accordance with statutory planning provisions the starting point for determination of the proposals is the development plan, which in this case comprises the Mid Glamorgan (Merthyr Tydfil County Borough) Replacement Structure Plan 1991-2006 and the Merthyr Tydfil Borough Local Plan. Although these plans have been in place for some time, having been adopted in 1996 and 1999 respectively, both documents were prepared on the basis of a plan period to 2006 [5.1, 5.4].
- 15.49 The development proposals fall to be considered against a large number of structure plan and local plan policies [5.2, 5.3]. The applicant does not seek to argue that the proposals do not conflict with the development plan, but maintains that other considerations outweigh such conflict as does exist [7.44-55]. My conclusions in relation to this follow later. However, opposing parties contend that the extent to which the proposals conflict with the development plan is considerably greater than in the applicant's assessment, summarised in Doc MV 1 Appendix MC2 [10.43, 11.1-10, 11.16, 11.20, 11.22, 11.26, 11.27, 11.40, 11.45, 12.7, 12.25, 13.2].
- 15.50 A principal reason for this divergence of opinion is that the development in relation to a large number of structure plan and local plan concerning nature conservation and archaeological/historic interests is assessed by the applicant as compliant subject to mitigation. This analysis is justified largely on the basis of claims that the phase 1 working area could be fine tuned, and the phase 2 development worked up within the broad framework of the indicative site plan, so as to enable effects on the nature conservation and

historic interests of the site to be kept within acceptable bounds. The section 106 agreement, it is said, puts in place a detailed mechanism that would ensure this is done.

- 15.51 However, my earlier conclusions concerning the physical extent and impact of the proposed phase 1 works on the nature conservation and historic interests of the site and the additional implications of accommodating the amount of built development sought by the phase 2 application in the overall area identified and based on the development arrangement broadly indicated by the indicative site plan lead me to a different view. In my judgement the phase 1 and the phase 2 development proposals are inherently so little cognisant of the ecological and historic interests present on the site that the mitigation strategy now proposed would not result in these important interests being adequately maintained if the permissions were granted.
- 15.52 Overall, I consider that the applicant's portrayal of the proposals in relation to development plan policies [*Doc MV1 Appendix MC2*], which finds only three policies (structure plan policies EV1 and R1, local plan policy H3) with which the proposals do not comply and a further two (structure plan policy E5 and local plan policy EB2) with which it is said there is partial compliance, to be highly misleading. It is in marked contrast to the analyses contained in the planning officer reports on the applications [*Docs CD5.1 & CD6.6/6.8*], which conclude that the phase 1 and the phase 2 applications each conflict with numerous structure plan and local plan policies. My assessment of the proposals in relation to the relevant development plan policies, based on all of the evidence, now follows.
- 15.53 Dealing first with the overall principle of the development in the location concerned, the site lies very largely outside the settlement boundary delineated in the local plan [*Doc CD2.1a proposals map*]. As such, the development scheme essentially falls to be considered as development within the countryside [*5.3 policy NH1*]. The phase 2 proposals plainly would be contrary to structure plan policy EV1. As regards the phase 1 works, although policy EV1 does identify land reclamation as an acceptable form of development in principle, my findings in the previous sections lead me to conclude that the reclamation proposals do not pay sufficient regard to the need to retain features of wildlife and historic interest, as required by local plan policy GR1 and structure plan policy D5. Moreover, the nature and scale of the reclamation works proposed go far beyond what would be necessary to provide restoration to the forestry/amenity and amenity/part business uses identified as appropriate for areas DL8 and DL9 in the local plan. Accordingly, the phase 1 and the phase 2 applications fundamentally conflict with policy EV1 and with the intent of the development plan for areas DL8 and DL9.
- 15.54 Local plan policy NH1 is more complex and in part requires consideration of the locational requirements of the relevant development-specific policies in the local plan. I set out my conclusions in relation to these development-specific policies below. This apart, the principal criteria contained in policy NH1 at issue in this case are those concerning the effect on the nature conservation interests of the site; the character, amenity and landscape quality of the area; the enjoyment of public rights of way and other forms of public access; and transportation considerations.
- 15.55 My conclusions concerning effects on ecology, wildlife and habitats [*15.18-32*] lead me to conclude further that both the phase 1 and the phase 2 proposals would pose an unacceptable risk to sites of nature conservation interest. Following from my conclusions on visual impacts [*15.11-17*] I conclude that the form of the development proposals would, in the particular respects I have identified, have unacceptable visual effects in the landscape.

- 15.56 The question of enjoyment of public rights of way and other forms of public access is complicated by the lack of a definitive rights of way map. However, several claimed rights of way have been registered; and although at least some of these are disputed by the applicant [7.115], many of these appear to follow long-established historical routes across the land and are in practice used by the public, mainly on foot but in some cases as horse riding routes also. Whilst their precise legal status may be uncertain, the evidence indicates that they are currently used by the public as a matter of fact [3.13; 11.23-25; 12.28-30; 12.42-43]. A large proportion of these routes lies within the area of the phase 1 works and within the phase 2 development footprint. Even allowing that the detailed phase 2 development layout would attempt to preserve historical routes through the development to the countryside beyond, the public enjoyment of these routes which occurs at present and the amenity arising from this would be very seriously diminished. In addition, the upper part of the site is open access land, and part of this would be within the area of the phase 1 works and subsequently within the area of the phase 2 residential development. Notwithstanding the comments of CCW concerning possible restriction of access for public safety reasons [Doc CCW69], I conclude that the proposals would compromise the public enjoyment of the land.
- 15.57 The evidence does not identify any significant issues concerning transportation effects which could not be resolved by conditions or by the provisions of the section 106 agreement. Nonetheless, I conclude that the phase 1 and phase 2 proposals would fail to satisfy the criteria in policy NH1 relating to nature conservation interests, character, amenity and landscape quality, and public enjoyment.
- 15.58 Structure plan policy H1 simply provides a figure for the amount of new housing land to be made available in Merthyr Tydfil Borough between 1991 and 2006. The figure in the policy is land for 2,450 dwellings. The policy needs to be read in conjunction with local plan policy H1, which identifies sites for 1800 new dwellings for the period 1995-2006, against an estimated supply requirement for the same period of 1978 dwellings. Developments on unallocated sites, such as windfall sites, small infill developments and conversions, are estimated to take the total provision within the plan to 2684 units. Apart from housing site H13 (0.9ha) on the edge of Heolgerrig, none of the 1750 or so dwellings included in the proposals is on land allocated for housing in the development plan.
- 15.59 As such, the phase 2 proposals do not accord with the housing land provision strategy laid down in the development plan. The phase 2 proposals plainly conflict with local plan policy H3 concerning housing development proposals on unallocated sites outside settlement boundaries. The objective of local plan policy H4 would be met, in that much of the housing proposed is intended to meet affordable housing needs; however, this does not alter the fundamental conflict with the housing strategy of the plan and with local plan policy H3.
- 15.60 As regards the business employment development element of the phase 2 proposals, structure plan policy E4 states that 40ha of land will be made available to provide a suitable range of sites for business uses over the plan period. Policy E5 makes provision for additional special employment sites, including land at Rhydycar forming part of the application site. Local plan policies EB1 and EB2 translate these provisions into site specific proposals, allocating 54ha of employment land in locations throughout the area to provide a suitable range of business sites to meet future land needs and additionally identifying site E13 (21 ha) within the application site to provide for special regional employment uses. Local plan policy RC7 permits new office floorspace within the identified settlement boundaries. The proposed phase 2 business/office units, which would total 6500m² floorspace, would not be in any of the locations where new employment or office development is envisaged by the local plan.

- 15.61 Moreover, the land identified as a special regional employment site (site E13) under policy EB2 is shown on the phase 2 indicative site plan drawing as accommodating parts of the proposed sports developments, hotel and A3 uses, associated car parking areas, a petrol filling station and accommodation areas for plateau embankments and drainage attenuation features. The phase 2 development proposals thus clearly do not conform to the locational employment and office development provisions of the development plan.
- 15.62 Turning to the retail development proposals forming part of phase 2, structure plan policy R1 seeks to maintain and enhance Merthyr Tydfil town centre as a sub-regional centre. Policy R4 opposes large retail proposals outside town centres where, amongst other things, the vitality and viability of nearby town centres is likely to be undermined taking into account the cumulative effects of other approved retail development, or the development plan allocates an appropriate site within or adjacent to the town centre. In the local plan, RC1 has a similar thrust. Local plan policy RC4 reinforces the retail policy focus on the town centre, identifying St Tydfil's Square, Station Yard and College Car Park as preferred locations for new retail development. Station Yard now accommodates a new Tesco development.
- 15.63 The text of local plan policy RC2 does not refer to the sequential test in respect of development proposals for the sale of durable non-bulky goods. However, the policy title and explanatory text indicate that this policy is aimed at proposals to vary the range of durable goods sold at existing outlets outside the town centre. Local policy RC3 deals with new retail proposals on existing industrial and business sites. The phase 2 retail proposals do not contravene structure plan policy R6 and criterion 3 of local plan policy RC1, since the retail proposals are not indicated as encroaching on special regional employment site E13.
- 15.64 Although it considerably predates the most recent version of national retail policy guidance, provided in MIPPS 02/2005, the central thrust of development plan retail policies is nonetheless focused on maintaining and enhancing Merthyr town centre as a sub-regional shopping centre, and on judging new retail development proposals on the basis of a sequential approach and consideration of likely consequences for the town centre itself. The development proposals constitute a very substantial (32,400m²) element of non-food retail development in an out of town location. Merthyr has already experienced a recent large new non-food retail development in an edge of centre location, at Cyfarthfa Retail Park, where not all the units have yet been occupied. Further significant retail development outside the town centre is likely to occur shortly as a result of the permitted Trago Mills scheme.
- 15.65 Despite the applicant's contention [7.102], there is no persuasive case for the development on the basis of any existing identified quantitative or qualitative need. The retail assessment shows a forecast capacity for the amount of retail floorspace proposed in the operating year of 2014. This is not an existing or imminent need; and the timescale on which this forecast future need relies is considerably longer than usual for such studies [13.3].
- 15.66 It is argued that there are no sequentially preferable sites available to accommodate the retail development proposed, which is necessarily of a large scale in order to boost the profile of Merthyr as a retail destination [7.105-106]. However, this is on the basis that all of the retail development proposed must occupy a single location. The local plan identifies sequentially preferable locations for new retail development. Although no single site may be capable of accommodating all of the retail floorspace proposed, there has been no meaningful consideration of the scope for disaggregation to achieve retail provision better related to and more supportive of the town centre's retail function [13.3]. The argument for a single site rests solely on the asserted imperative for a development of a certain critical mass. However, there is no comparative analysis of the economic effects of a number of smaller proposals.

Moreover, the asserted economic benefits of the retail proposals, which will not be in operation until 2014, must be weighed against the implications for investment in and adjoining the town centre.

- 15.67 The retail assessment on behalf of the applicant maintains that the proposals would have very little impact on town centre trading. I find the low level of impact forecast surprising. In my view it cannot be relied upon, given the disparities with earlier retail studies, the lengthy timescale of the forecast and the absence of restrictions, other than in respect of food retailing, on the type of retail occupier that would materialise [13.3]. There is no sustainable basis for the suggestion that the retail development, in the proposed location well away from the town centre, would, even with non-car travel links to the town centre, complement rather than compete with the town centre shopping function. Moreover, the proposal would, by commandeering such a large part of the retail growth potential of the area to 2014, seriously harm the prospect of other retail schemes coming forward on sites in or adjoining the town centre for the foreseeable future [13.2, 13.3, 13.6].
- 15.68 I conclude that the retail development proposed as part of the phase 2 proposals would be out of accord with the development plan, owing to its lack of conformity with a sequential approach to new retail development proposals and because of its probable adverse effect upon the well-being of the town centre, particularly in terms of its future prospects for attracting new retail investment and so maintaining and enhancing its retail function.
- 15.69 As regards the various leisure elements of the phase 2 development proposals, there is no indication of the use or uses proposed for the 9,300m² floorspace element in the application other than the provision in the section 106 agreement that the uses shall not undermine the Council's proposals for redevelopment of the Rhydygar Leisure Centre area. As such, this component appears essentially speculative in nature, and fails to demonstrate adequately how the tests inherent in structure plan policies L3 and L4 concerning non-availability of sequentially preferable sites, including consideration of the scope for disaggregation, and meeting needs for local leisure facilities are satisfied. This element of the proposals and the A3 use element would, on their face, conflict with local plan policy RC5, which plainly steers intensive leisure or entertainment uses to town centre or edge of centre locations where available. In any event policy RC5 does not contemplate leisure uses of a nature appropriate to the town centre outside the settlement boundary.
- 15.70 Local plan policies LRT3 (golf facilities), LRT4 (comprehensive leisure facilities) and LRT6 (hotel facilities) do not contain specific restrictive locational requirements in relation to settlement boundaries. However, they repeat the criteria which the local plan makes clear development proposals must take into account, including avoidance of unacceptable impact on the character, amenity and landscape quality of the area. This requirement specifically identifies the need to retain features of wildlife, nature conservation and historical interest.
- 15.71 The same proviso concerning impact on character, amenity and landscape character, including the need to retain features of wildlife, nature conservation and historical interest, is included in local plan policies relating to the other principal forms of development comprised in the phase 2 proposals (policies H3, RC1, EB3). Adequate investigation of the need to retain these features is also a requirement of local plan policy GR1 concerning the land reclamation proposals comprised in phase 1.
- 15.72 In addition, local plan policy NH5 requires that full account be taken of sites of importance for nature conservation (SINCs). Structure plan policy EV5 requires suitable measures to ensure the survival of species, habitats and features in respect of SINCs and ancient semi-

natural woodlands. The phase 1 and the phase 2 proposals fail to satisfy these requirements in respect of the Cwm Pit and Cwm Woods SINC [Docs CD6.3 & CD6.6 Appendix 2]. I further conclude, based on the submitted phase 1 details and the indicative phase 2 development arrangement in relation to areas of protected trees or ancient and environmentally important woodlands [15.21], that the phase 1 and phase 2 proposals both run counter to criterion 2 of local plan policy NH6.

- 15.73 Turning to the question of impact on the Cwm Glo SSSI, neither the phase 1 nor the phase 2 proposals would directly affect the SSSI. However, local plan policy NH3 also refers to indirect effects; whilst structure plan policy EV5 applies to development which would lead to damage or disturbance to an SSSI, which in my view again covers indirect effects. Following my conclusions above [15.27] concerning the potential consequences of the phase 2 proposals for the future well-being of the SSSI, notwithstanding the safeguards which could realistically be imposed by means of the section 106 agreement, I conclude that the phase 2 proposals run counter to the clear intent of these policies to protect the special interest of SSSIs. However, the question of outright conflict with local plan policy NH3 depends ultimately on the outcome of a balancing of the merits of the proposed development against the value of the special nature conservation interest affected.
- 15.74 I am satisfied that sewerage and drainage infrastructure to serve the development could be provided in a satisfactory manner. Although some concerns were raised about the possible water environment-related consequences of large scale injection of grout material into disused mine workings, no specific measures of this nature are mentioned in the proposal details. A condition could be imposed to ensure proper scrutiny and regulation of such works, if permissions for the development were granted. This would secure conformity with local plan policy NH7 and structure plan policies U5 and U6.
- 15.75 The local plan and structure plan also contain policies relating specifically to protection of areas and features of historic interest. The case for the applicant maintains that the policies of the local plan are not offended by the proposed development [7.47-55]. However, in the light of my preceding conclusions concerning the effect of the phase 1 and phase 2 proposals on the historic landscape and on archaeology [15.33-47], I conclude that the proposals embodied in both phases of the development would fundamentally conflict with local plan policy BH3 and with structure plan policy EV10, and with the overall objective within the development plan to ensure that new development pays adequate regard to the protection of the surviving elements of Merthyr's historical heritage. In addition, both the phase 1 and the phase 2 proposals as indicated on the submitted applications would adversely affect the character of structures identified as of local historic merit under local plan BH5, namely parts of the Cyfarthfa Canal (Cwm Woods) and sections of surviving former railway line including the Cwm Pit railway. The development would thus conflict with this policy also. However the proposals would not, in my judgement, adversely affect the setting of the nearby listed 1-16 Upper Colliers Row, and so would not conflict with local plan policy BH4.
- 15.76 The proposed coal washing from selected tips is an ancillary activity to the principal phase 1 land reclamation and re-profiling works [2.4]. Although the details of this element of the phase 1 works are, like the land re-profiling element, somewhat schematic, I am satisfied on the basis of the information provided that the phase 1 proposals would satisfy the provisos of local plan policy GR1 and structure plan policies MIN1 and MIN8 concerning protection of amenity and environmental pollution, subject to the imposition of appropriate conditions.
- 15.77 The development proposed in phase 2 would comply with many of the relevant transportation-related policies contained in the development plan. The traffic generation

effects and highway use implications of the phase 2 proposals would be rendered acceptable by the provisions of the section 106 agreement relating to the construction of the proposed secondary access in due course and the various junction improvements to the nearby trunk and principal road network [14.2 & Doc 9, Doc MV 12] (structure plan policies T10 and T11). Although objectors raise concerns about the contribution to future congestion at the A470 Swansea Road junction [11.31], I consider that technical solutions to this could be found if necessary. Detailed road standards and parking provision (structure plan policies T12 and T14) are issues for reserved matters details. The proposals within the scheme to make provision for public transport services to the town centre and linking with rail services and for cyclists and pedestrians are in conformity with structure plan policies T4, T8, T9 and T16 and local plan policy T10. However, the disregard shown by the phase 1 and phase 2 proposals to the potential of the routes of disused railway lines as travel routes runs counter to structure plan policy T6 and local plan policy T9.

15.78 Drawing together all of the above, I conclude that the phase 1 and the phase 2 proposals would fail to comply with numerous individual structure plan and local plan policies. In summary, the main conflicts with the provisions of the development plan are as follows:

- The phase 1 proposals are far more extensive than would be consistent with the condition of the identified areas of derelict and unsightly land and their restoration to the after uses envisaged by the local plan.
- The phase 1 proposals do not satisfy the development plan requirement to take into account in the design of the scheme the nature conservation, historic or industrial archaeological features of the site.
- Phase 2 proposes a range of developments which fall very largely outside the restricted range of uses identified by the development plan as acceptable in principle in the countryside beyond the settlement boundary.
- The housing, retail, business/office and a significant part of the leisure development comprising the phase 2 proposals conflict with the locational policies governing such developments.
- The phase 2 proposals do not accord with the significant policy thrusts requiring that proper regard is paid to the nature conservation and habitat value, historic and archaeological interest, and amenity value and landscape character of the site in formulating development proposals.

On this basis I conclude that both the phase 1 and the phase 2 proposals are fundamentally in conflict with the provisions of the development plan.

Conformity with national planning policy guidance

15.79 Since the phase 1 and phase 2 proposals collectively involve a number of different types of development and raise a range of environmental issues, many parts of PPW and the supplementary TANs are relevant to their assessment [5.5-6]. Much of the detail of this policy guidance is consistent with the detailed development plan policies referred to above, and so is not repeated here. I concentrate instead on the main thrust of the policy guidance in PPW and TANs that concerns the principal salient matters at issue.

15.80 PPW confirms the place of sustainability at the heart of the decision making process. It identifies four objectives which need to be pursued simultaneously, namely:

- social progress which recognises the needs of everyone
- effective protection of the environment
- prudent use of resources
- maintenance of high and stable levels of economic growth and employment

Amongst other things, planning policies and proposals should:

- promote resource-efficient settlement patterns that minimise land-take and urban sprawl, especially through preference for the re-use of suitable previously developed land and buildings, wherever possible avoiding development on greenfield sites
- locate developments so as to minimise the need for travel, especially by private car

- contribute to the protection and improvement of the environment and protect local ecosystems, seeking to avoid irreversible harmful effects on the natural environment
- help to ensure the conservation of the historic environment and cultural heritage
- ensure that local communities have sufficient good quality housing for their needs
- promote access to employment, shopping, education, health, community, leisure and sports facilities and open and green space
- foster improvements to transport facilities and services
- foster social inclusion, by securing a more accessible environment for everyone

Flowing from the sustainability agenda, a primary Assembly Government priority for urban areas is to secure environmentally sound and socially inclusive regeneration in those areas which require it.

15.81 PPW also confirms the role of the development plan in the decision making process. It identifies the importance of a plan-led system and the statutory requirement that determinations be made in accordance with the development plan unless material considerations indicate otherwise. It emphasises the key role of a sustainability appraisal in the development plan process and provides guidance on questions of prematurity in relation to the plan preparation process.

15.82 PPW devotes individual chapters to conserving and improving natural heritage, conserving the historic environment and supporting the economy. So far as natural heritage is concerned, PPW confirms the significance of biodiversity and landscape issues, particularly in relation to protected habitats, species, landscapes and other features. The policy advice reinforces the need to balance conservation objectives with the wider economic needs of local businesses and communities; and identifies, where development is justified, the need to avoid where possible and otherwise minimise adverse environmental effects, retaining and where practicable enhancing features of conservation importance.

15.83 As regards the historic environment, the guidance in PPW identifies objectives relating to preserving and enhancing the historic environment, and protecting archaeological remains, which are a finite and non-renewable resource. It also takes into account the guidance contained in Welsh Office Circular 60/96. The desirability of preserving ancient monuments, whether scheduled or not, and their settings is confirmed, including the principle that where nationally important archaeological remains (whether scheduled or not) and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ. In relation to recognised historic landscapes, PPW confirms that information on historic landscapes in the second part of the Register should be taken into account in considering the implications of developments of such a scale that they would have a more than local impact on an area on the Register.

15.84 PPW also articulates the Assembly Government's objectives for supporting the economy. The guidance emphasises the sustainability, locational and accessibility principles that should underpin economic development strategies, and the need for development plans to provide an adequate range of opportunities for economic development proposals, guided by these principles.

15.85 The guidance in PPW concerning transport matters focuses strongly on sustainability and accessibility issues, and on the importance of an integrated transport approach to deliver this and reduce reliance on the car. However, it also emphasises that ensuring a spatially efficient pattern of development and uses, especially where uses are complementary, is a key component in achieving overall transport and accessibility objectives.

- 15.86 National planning policy guidance on housing provision focuses on the development plan process as the means of identifying the most suitable locations to deliver the housing requirements of the whole community, by undertaking a systematic search sequence designed to ensure that land is identified for housing which represents the most sustainable use of resources and which best assists sustainable patterns of land use and travel. Previously developed land and buildings, particularly within settlements, should be allocated in preference to greenfield sites. Only sufficient land to meet the identified housing requirement should be identified. The housing strategy should assess the scope and potential for rehabilitation, conversion, clearance and redevelopment, particularly to assist regeneration and relieve pressure on greenfield sites.
- 15.87 National policy guidance on planning for retailing and town centres is now found in MIPPS 02/2005. The main thrust of this policy guidance confirms established centres as the most appropriate locations for retailing, leisure and for other functions complementary to it. It seeks to enhance the vitality, attractiveness and vitality of town centres; development plan policies should follow this approach. When identifying new sites for retail, leisure or other uses best located in a town centre, or determining planning applications for the same, a sequential approach to site selection/site availability should be adopted, starting with town centre locations and followed by edge of centre sites, then district and local centres, and, only then, accessible out of centre sites. Questions of need should be considered for sites not in a town centre or allocated in an up-to-date development plan. To maximise the opportunities for new development in centres, developers and retailers will need to be more flexible in terms of the format, design and scale of new development. Consideration of the effects of major new retail proposals should take into account the likely effects of recently completed developments, outstanding planning permissions and development plan commitments.
- 15.88 There are other parts of PPW and the TANs and Minerals Planning Policy Wales/ extant Mineral Planning Guidance which provide policy guidance and advice relevant to the detailed consideration of the many different aspects of the development proposals comprised in phases 1 and 2 [5.5-7]. However, the preceding paragraphs summarise the thrust of national planning policy in terms of the principal matters relevant to evaluation of the merits of the proposals.
- 15.89 Turning to how well the development scheme comprised in the phase 1 and phase 2 proposals conforms to the guidance summarised above, the scheme in essence comprises a large-scale, mixed use development on a greenfield site possessing a high degree of historic/archaeological and habitat/wildlife value and making a significant contribution to local amenity and the visual character of the area.
- 15.90 The development would represent a major injection of investment into the Merthyr area, which would plainly bring significant benefits in terms of housing, economic activity and employment, and increasing the range of leisure, community and shopping facilities available [7.21-25].
- 15.91 However, the proposals do not accord with the core sustainability objectives and policy principles of PPW in a number of other key respects. The development is almost entirely focused on land outside the existing settlement boundary which forms an important part of the countryside setting of Merthyr Tydfil. Although some of the land concerned comprises un-restored spoil tips, having regard to the extent to which these areas have blended into the landscape over time, the extent of the nature conservation value that has been identified in respect of these areas and the existence of a current agricultural use over much of the site, the site does not fall within the definition in PPW of previously developed land [10.45, Doc

CD1.2 p24 Fig2.1]. The proposals run counter to key principles of making best use of previously developed sites within the existing built-up area, focusing new development appropriate to town centre locations on the most central and accessible sites available, promoting regeneration, renewal and revitalisation of the existing urban fabric and avoiding urban sprawl and minimising use of greenfield sites.

15.92 The proposals clearly run counter to the emphasis of national planning policy guidance on a plan-led system and on the use of the most appropriately located sites in sustainability terms to meet identified housing, retail and leisure needs. Although the proposals include significant measures to provide public transport links and to provide for the needs of cyclists and pedestrians, these serve largely to mitigate the inherently less sustainable characteristics of the site's location in relation to the existing pattern of development and uses. As such, the proposals do not meet the sustainability objectives of PPW as effectively as available allocated sites more accessibly located in relation to existing uses and transport facilities.

15.93 Moreover, because of its failure to pay adequate regard to the protection of the site's important biodiversity and habitat value and to the protection of nationally important archaeological remains and their settings and the historic landscape, the proposed development fails to accord with national policy guidance in terms of protecting the environment and conserving natural and historic resources.

15.94 PPW makes clear that working towards sustainable development means pursuing the four core objectives [15.80] at the same time. In my view the proposals do not reflect such an approach. I conclude that, for the reasons identified above, the development proposals do not accord with the overall thrust of national planning policy guidance.

The Wales Spatial Plan and "Heads - We Win...."

15.95 Much of the case advanced on behalf of the applicant derives from the Wales Spatial Plan (WSP) and Heads We Win... [7.9-26,]. The WSP is a material consideration in the determination of these applications. Its purpose is to provide an integrated strategic framework to guide future development and policy interventions through to 2020, whether or not these relate to formal land use planning control.

15.96 The first part of the WSP sets out the spatial vision for Wales as a whole based on core principles of building sustainable communities; promoting a sustainable economy; valuing our environment; achieving sustainable accessibility; and respecting distinctiveness [5.8]. There is nothing in this broad, overarching approach which is significantly at odds with the essential thrust of the national planning policy guidance, principally found in PPW, outlined above. Similarly, the more detailed land use planning policies of the development plan, although formulated some years ago and plainly reflecting the thrust of national planning policies extant at that time, nonetheless have a direction consistent with the WSP's core principles.

15.97 The second part of the WSP, which focuses on the identified individual regions of Wales, notes the high levels of social deprivation and economic inactivity experienced by the heads of the valleys area. It identifies a strategy of joined-up regeneration action along the heads of the valleys corridor, focusing initially on unlocking the potential of Merthyr Tydfil and Ebbw Vale. It refers to the development of a coherent joint strategy, including targeted investment in Merthyr Tydfil, to drive regeneration. The strategy is to focus on promoting developments in housing, retail, leisure and town centres besides economic development [5.9].

- 15.98 “Heads – We Win...” (March 2005) is a Welsh Assembly Government consultation document. It represents a first step in the process of developing the strategy identified by the WSP. It sets out a vision for the revitalisation of the Heads of the Valleys through to 2020, with an initial focus of investment on the twin hubs of Merthyr Tydfil and Ebbw Vale [5.11]. However, it is a consultation document rather than a statement of determined policy. Whilst a significant indication of Welsh Assembly Government thinking on the way ahead for the Heads of the Valleys, the document does not supersede settled government policy as set out in PPW.
- 15.99 The WSP and the “Heads – We Win...” consultation reflect and confirm much of the evidence to the inquiry on behalf of the applicant emphasising the social and economic difficulties and issues facing Merthyr Tydfil [7.5-7] and the need for concerted, positive action and investment to address these matters. However, the WSP and “Heads – We Win...” do not attempt to identify specific sites for development, and there is nothing to suggest that these documents are intended to undermine the primacy of the development plan process in this respect. Moreover, as noted above, the core values of the WSP are focused on sustainability, and so correspond closely to the sustainability objectives and principles which underpin PPW and are translated in that document into national planning policy.
- 15.100 Similarly, whilst the “Heads – We Win...” consultation indicates a strong support for significant investment in Merthyr Tydfil and summarises the key types of investment required, it does not attempt to prescribe the detailed form that development should take or its detailed geographical location. Such indicators as are given suggest, in keeping with the Welsh Assembly Government’s strong sustainability ethos, an investment focus which includes support and revitalisation of the town centre and a housing strategy with key objectives of modernising the existing public sector housing stock, pursuing an urban renewal strategy for the private sector housing stock, and broadening the availability of private sector housing, especially affordable housing.
- 15.101 It is argued that the regeneration of Merthyr Tydfil requires the catalyst of a major development scheme to change the image of the town and encourage further investment to follow [7.23]. However, there is no reliable evidence that the proposed development would have this effect, or that other development/investment scenarios more consistent with the sustainability principles of PPW would not be as effective in securing the regeneration of the town and the wider area. Indeed, the scale of the residential, retail and commercial leisure elements of the proposals and the anticipated timescale for their implementation would effectively absorb a very large part of Merthyr’s forecast capacity in these sectors for many years to come. As such, much of the area’s current potential for private investment would be locked into a single greenfield site, away from the existing fabric of the town where investment should be focused as far as possible. There would thus be a real possibility that these proposals would actually make it less likely that schemes for the development and redevelopment of available sites within the urban fabric, better able to meet the sustainability and regeneration objectives of national policy, would materialise. The proposals would thus undermine, rather than promote, the objectives of revitalising and strengthening the town centre and regenerating the fabric of the town to create a vibrant and attractive place to live and work for the benefit of all of its inhabitants.
- 15.102 Although it is now some years since the policies of the structure plan and the local plan were formulated, and both have almost come to the end of their plan periods, they nonetheless comprise the extant development plan, against which proposals must in the first instance be judged. I consider the thrust and content of their policies to be essentially consistent with more recently issued national planning policy guidance, and so still a valid

basis for consideration of the merits of the proposals. Whilst criticism was made of the current situation concerning housing land availability, this is being reviewed at present. Given the length of time before much of the proposed housing would be built and the site's location almost entirely on greenfield land outside settlement limits, I do not regard the criticisms of housing land availability as good reason to permit the 1750 dwellings proposed. To permit the development would be tantamount to allowing new housing equivalent to the whole of Merthyr Tydfil's forecast housing requirement for many years to come on land clearly inferior to allocated housing sites in the local plan in terms of the sustainability-based approach and the site selection sequence advocated in national planning policy guidance.

15.103 The WSP and the current consultation document "Heads – We Win..." indicate an increased emphasis on investment in Merthyr, as a key element of a concerted programme of regeneration for the Heads of the Valleys through to 2020. However, although investment in Merthyr is seen as an important early phase in this process, it is important that investment is focused in ways which properly accord with established planning objectives. I do not consider that the intention of the WSP and "Heads – We Win..." is to encourage a development which so clearly conflicts with national and local planning policies and would have the harmful consequences I have identified. Significant other investment is already taking place in Merthyr Tydfil, and there is no evidence that refusal of the current proposals would derail the wider Heads of the Valleys regeneration process.

Other Matters

15.104 The local development plan for Merthyr Tydfil is at a very early stage, and will not be in place until at least 2009/10 [7.119]. However, this is not a good argument in support of the proposed development. The extant development plan provides a proper statutory basis for consideration of the proposals, along with all other material considerations. I have reached my conclusions on the merits of the proposals on this basis [7.120]. I recognise the advice in PPW concerning the circumstances where a refusal on prematurity grounds in relation to an emerging development plan may be justified. Such circumstances do not exist here. Nonetheless, I consider that a further adverse consequence of a decision to permit the current proposals would be to predetermine a large part of the development proposals content of the plan, in advance of the sustainability appraisal which will form an integral part of the new development plan process.

15.105 The Council's support for the proposals [8.1-8.33] is plainly a material consideration. Elected Members are not bound to follow the recommendations of their professional officers; however, when departing from such recommendations, they should be able to show proper planning grounds for doing so.

15.106 The reports on the phase 1 and the phase 2 applications were placed before Members on separate occasions nearly three years apart [8.16]. The Council's reasons for supporting the phase 1 proposals in 2002 were that the majority of the phase 1 site was designated as derelict land; that the works would provide a large development area suitable for retail, leisure, business, and residential purposes with associated employment potential and economic regeneration benefits; and that conditions could be imposed to protect much of the site's ecological and historic value. The perceived benefits of the phase 2 proposals plainly heavily influenced Members' decision to support the phase 1 proposals. However, at that time Members did not have before them information as to the full extent of the phase 2 proposals; their accord or otherwise with the development plan; how effectively they might contribute to economic regeneration objectives; or their further implications for the ecological and historic features of the site. Members' reasoning at that time in deciding to support the phase 1

proposals therefore relied on matters about which they did not have adequate information. Moreover, the reasons overlook the provisions of the local plan concerning the limited extent of any reclamation works to areas DL8 and DL9 and the after uses appropriate for these areas.

- 15.107 In relation to the phase 2 application, considered by the Council in 2005, it is plain from the reasons for supporting the phase 1 proposals and from the Council's evidence to the inquiry that Members had already formed a view by this time on the desirability of the proposals as a whole. The fact that the Council had already resolved to approve the phase 1 proposals, essentially because of the phase 2 development which they would facilitate, will in my view inevitably have influenced Members' consideration of the phase 2 application in due course. Because of this, I consider that real scrutiny by Members of the policy and environmental impact issues surrounding the phase 2 proposals is likely to have been largely finessed by the two-stage process of consideration of the scheme as a whole.
- 15.108 The Council's reasons for supporting the phase 2 proposals [8.21*et seq*] rest on the scheme's perceived benefits in terms of private investment; providing housing and other facilities to retain the existing population; enhancing the potential attractiveness and general social/economic well-being of the town; new jobs; and its relevance to the Council's Vision. These are relevant considerations. The underlying socio-economic issues confronting Merthyr Tydfil are not in dispute. The jobs and economic activity arising directly and indirectly from the construction phases of the development and from the commercial use developments proposed would be a clear benefit of the scheme. New housing and retail and leisure/community facilities would be available to existing residents and would enhance the attractiveness of Merthyr Tydfil as a place to live.
- 15.109 However, the development would do nothing to strengthen, enhance, or revitalise the town centre, and in my judgement would be likely to adversely affect its vitality and viability and reduce the prospect of significant investment in or adjoining the town centre. Whilst there would be benefits in terms of new housing, including affordable housing, the scale of housing proposed and its location would do nothing for the existing fabric of the town and the housing renewal and regeneration needs which clearly exist. Moreover, to permit such a large amount of new housing outside the existing built up area would seriously undermine the prospects for identified housing sites in more accessible and sustainable locations within the settlement.
- 15.110 On this basis I consider that the socio-economic benefits for Merthyr of the scheme, which essentially represents a large greenfield development placed alongside the existing settlement that would not improve the fabric and facilities already in existence and moreover would undermine the prospects for enhancement of the same, are overstated. The Council's stress on the relevance of the proposal to its Vision and the WSP/"Heads – We Win..." consultation [8.25-8.28] completely ignores the development plan policies and national planning policy guidance, which exist to provide a land use planning framework and a coherent set of principles to guide and govern decisions about the form and location of development consistent with the Council's corporate vision and the broad steer indicated by the WSP and the "Heads – We Win..." consultation.
- 15.111 Balancing the socio-economic benefits of the proposals in the light of these conclusions against the conclusions I have set out earlier, I conclude that the benefits of the scheme clearly do not outweigh the fundamental conflict with the development plan, with national planning policy guidance and the adverse consequences I have identified.

15.112 Although some objectors assert that the proposal is an attempt to bolster the case for opencast operations on the site [12.4-6, 12.46], this is not the nature of the current proposal, which must be determined on its own merits. Arguments that the proposals should be rejected because they would sterilise strategically important high quality coal reserves [11.11, 12.5], are not supported by any detailed evidence as to the scale, nature and strategic importance of such reserves. Moreover, such arguments cannot rationally be called upon in opposing the current proposals on grounds of resulting harm to the historic and ecological interest of the site [7.39]. Accordingly, these matters do not affect my conclusions as to the merits of the development proposals.

Overall Conclusions

15.113 The phase 1 proposals (application 020060) would involve the wholesale alteration of large areas of the existing landform, together with the removal of extensive areas of existing woodland including significant areas of protected trees. It would include the formation of large plateaux on the lower eastern and southern parts of the site. The phase 2 development (application 020260) would involve the construction of large scale retail, leisure and other forms of built development upon the modified landform and across a large part of the rest of the site. The development would have an unduly harmful impact in visual/landscape terms on semi-wooded slopes which provide an attractive countryside setting to this part of the town.

15.114 Both phases of development would result in large-scale loss and fragmentation of semi-natural biodiversity priority habitat, which form part of a coherent significant wider area of lowland semi-natural habitat at present. As a result, conditions favourable to the long-term well-being of individual species present on the site would be adversely affected. The exclusion of the SSSI from the area for development does not address this matter for most of the site. Because of the inherent nature and scale of the phase 1 and phase 2 proposals the retention of some areas of habitat value within and around areas of built development, supplemented by translocation of species/habitats where retention in situ is not possible, provides insufficient protection to the biodiversity and nature conservation interest of the site even though secured by the section 106 agreement.

15.115 Although mitigation measures are proposed in relation to the great crested newts present on the site, I consider that these fall short of what would be needed to maintain the favoured conservation status of the species. Whilst a mitigation strategy for bat species present on the site sufficient to ensure that they are maintained at a favourable conservation status in their range appears possible, a detailed strategy has not been prepared at this time which demonstrates this. However, the section 106 agreement provides a mechanism to secure this in advance of any development.

15.116 Although the development proposals have been amended to avoid direct impact upon the SSSI, the increased residential development close to its boundary would increase its vulnerability. Overall, the proposed development would have negative rather than positive consequences for the SSSI.

15.117 In summary, the ecology, wildlife and habitat value of the site, which is of significant importance, would be seriously diminished as a consequence of the development proposals. The proposed mitigation measures do not represent an adequate response to the nature conservation and biodiversity interest of the site.

15.118 The application site forms a significant and important part of the Merthyr Tydfil Landscape of Outstanding Historical Interest. It contains numerous significant archaeological

features reflecting the development of mineral extraction activity and associated transportation systems over a long period, primarily connected to the evolution of the Cyfarthfa Ironworks nearby. The scale, location and nature of the phase 1 operations and the scale and broad form of development proposed by phase 2 would result in large-scale loss or burial of archaeological features on the site, seriously compromising its historic interest and character. As presented, the development would directly affect the Cyfarthfa Canal Level SAM and destroy its setting, whilst the setting of the Cwmdy Air Shaft and Fan SAM would also be adversely affected.

- 15.119 Overall, the phase 1 and indicative phase 2 proposals show no meaningful attempt to preserve the coherence of the historic features of the landscape within the framework of the development. Although some archaeological mitigation is proposed through conditions and the provisions of the section 106 agreement, this would be unlikely to achieve more than the retention of the most significant archaeological features of the site as isolated remnants, lacking context or coherence, together with some of the lines of former linear features echoed by the development layout. Other provisions such as recording of features, greater public accessibility to and visibility of those features retained and the contribution to an interpretive heritage facility are insufficient to offset the very serious harm that would be caused to the archaeological character and integrity of the site and to the registered historic landscape.
- 15.120 Both the phase 1 and the phase 2 proposals are fundamentally in conflict with the provisions of the development plan. The phase 1 proposals are far more extensive than envisaged by the local plan and do not satisfy the development plan requirement to take into account the nature conservation, historic or industrial archaeological features of the site. The range of developments proposed by phase 2 conflict in almost every respect with the locational policies governing such developments, and fall outside the restricted range of uses identified as acceptable in principle in the countryside beyond the settlement boundary. The phase 2 proposals do not accord with policy thrusts requiring that proper regard be paid to the nature conservation and habitat value, historic and archaeological interest, and amenity value and landscape character of the site in formulating development proposals.
- 15.121 In terms of government planning guidance, the proposals run counter to key principles of making best use of previously developed sites within the existing built-up area; focusing new development appropriate to town centre locations on the most central and accessible sites available; promoting regeneration, renewal and revitalisation of town centres and the existing urban fabric; and avoiding urban sprawl and minimising use of greenfield sites.
- 15.122 The proposals are clearly contrary to the emphasis of national planning policy guidance on a plan-led system and on the use of the most appropriately located sites in sustainability terms to meet identified housing, retail and leisure needs. Proposed public transport links and other non-car travel measures do not alter the inherently less sustainable characteristics of the site's location in relation to the existing pattern of development and uses. Given the failure of the developments to pay adequate regard to the protection of the site's important biodiversity and habitat value and to the protection of nationally important archaeological remains and their settings and the historic landscape, they would not accord with government guidance concerning protection of the environment and conserving natural and historic resources.
- 15.123 The phase 2 development would represent a major injection of investment into the Merthyr area, which would plainly bring significant benefits in terms of housing, economic activity and employment, and increasing the range of leisure, community and shopping facilities available. However, this would be at the expense of the other key sustainability

principles identified, which are not adequately taken into account. The development proposals do not accord with the overall thrust of national planning policy guidance.

- 15.124 The strategic investment and regeneration focus for Merthyr Tydfil identified in the WSP and the “Heads – We Win...” consultation document does not supplant the clear thrust of PPW concerning the balanced pursuit of all four core sustainability objectives concerning social, environmental, resource and economic considerations in the determination of planning and land use matters and the detailed planning guidance which flows from this. The WSP and “Heads – We Win...” are not intended to undermine the plan-led system and the framework for development decisions which this provides. Moreover, to channel such large scale development and investment, representing much of Merthyr’s development requirements for the coming years, to a location outside the existing built up limits would undermine rather than assist the regeneration of the town centre and other parts of the urban fabric which the WSP and “Heads – We Win...” plainly seek to promote.
- 15.125 On the basis of all of the evidence I conclude that both the phase 1 and the phase 2 proposals fundamentally conflict with the provisions of the development plan and with the clear thrust of government planning policy guidance. The proposals would have serious adverse consequences for the important nature conservation and historic interests of the site and would be unduly harmful to the visual quality of the landscape and to the public amenity value of the site. The mitigation measures proposed and the provisions of the section 106 agreement would not offset effectively the adverse effects in these terms, nor can the adverse consequences of the proposals be overcome by the imposition of conditions. All other considerations advanced in support of the proposals, including the social and economic benefits arising from the proposals, the strategic investment requirement indicated by the Wales Spatial Plan and “Heads – We Win...”, the likely timescale before the development strategy for Merthyr proposed by the awaited local development plan is clear and the various provisions of the section 106 agreement, have been taken into account. However, these do not outweigh the fundamental conflicts with the development plan and with national planning policy guidance, and the substantial harm that would be caused by both the phase 1 and the phase 2 proposals to the ecological, historic and visual characteristics of the site.
- 15.126 Accordingly, I have concluded that circumstances do not exist which indicate determinations otherwise than in accordance with the development plan in this case; and that planning permission should not be granted for either the phase 1 or the phase 2 development.
- 15.127 If my recommendation is not accepted, and it is decided that permission should be granted in respect of one or both applications, then the conditions set out in the annex to this report should be imposed.

16. RECOMMENDATIONS

Application 020060 (Phase 1):

- 16.1 I recommend that planning permission be REFUSED.

Application 020260 (Phase 2):

16.2 I recommend that planning permission be REFUSED.

Alwyn B Nixon

Inspector

Annex: Recommended Planning Conditions in the event of the Grant of Permission

PLANNING APPLICATION NO: 020060 (Phase 1)

Commencement of works

- 1 The development to which this permission relates shall commence not later than the expiration of 5 years beginning with the date of this permission.

Duration of works

- 2 Engineering/earthworks (other than coal washing) shall cease within 48 months from commencement of development, unless otherwise first agreed in writing by the local planning authority. Coal washing shall cease not later than 36 months from the commencement of development, unless otherwise first agreed in writing by the Local Planning Authority. Any building, plant, machinery, hardstanding or other works associated with the mineral extraction (coal washing) hereby permitted shall be removed from the site within 28 days of completion of minerals recovery operations and the affected areas shall be suitably reinstated in accordance with a scheme of reinstatement, including a timescale for its completion, which shall be submitted and approved in writing by the local planning authority before the cessation of coal washing operations.

Plans/documents

- 3 No development shall commence until a detailed programme of works with accompanying drawings showing the extent, sequence and phasing of the land re-profiling operations have been submitted to and approved in writing by the local planning authority. Such plans shall show existing and proposed site contours and cross sections, at suitable scales. In particular, the submitted plans shall make clear all changes to existing ground profiles in the vicinity of watercourses crossing the site. Development shall be carried out in accordance with the approved details.

Method of working

- 4 No development shall commence until a method of working statement for the tip re-profiling and spoil washing operations hereby permitted has been submitted to and approved in writing by the local planning authority. All works undertaken shall be fully in accordance with the approved statement. The statement shall include details of the following:-
 - Siting/design/external appearance of all surface structures;
 - Fencing;
 - Coal stockpiling areas;
 - Overburden storage areas;
 - Soil storage areas;
 - Soil forming material storage areas.

Treatment of mine workings

- 5 No development shall commence until a scheme of investigation of former mine workings and their treatment has been submitted to and agreed in writing by the local planning

authority. All treatment of mine workings shall be carried out in accordance with the scheme, as approved.

Stability/combustibility

- 6 No development shall commence until a detailed programme of the engineering measures proposed to ensure long term site stability and safety has been submitted to and approved in writing by the local planning authority. The scheme shall be accompanied by a structural design certificate completed and signed by a Chartered Civil/Structural Engineer. The engineering measures so identified shall be carried out in accordance with the approved programme as part of the development.

Hours of operation

- 7 Except in emergencies and where essential to maintain the safe operation of the site (notification of which shall be given to the local planning authority as soon as is practicable), or unless the local planning authority has agreed otherwise in writing, no operations other than water pumping or servicing to water pumps or environmental monitoring shall be carried out at the site except between the following times:-
- | | |
|-------------------------|---------------------|
| Mondays – Fridays | 0800 to 1800 hours; |
| Saturdays | 0800 to 1300 hours; |
| Sundays/Public Holidays | No working. |

Noise

- 8 There shall be no blasting on site.
- 9 Noise arising from the approved operations shall not exceed the following levels at the following noise monitoring locations (to be taken from the nearest dwelling to the development site):

Noise Monitoring Location	Background Level (LA90) 2001	Maximum permitted background noise level (LAeq) (1 hr - daytime)
Location A: Andrews Close, Heolgerrig	35dB	45dB
Location B: Brondeg	37dB	47dB
Location C: Caerwern, Ynysfach	48dB	55dB
Location D: Lewis Square, Upper Abercanaid	46dB	55dB

Dust

- 10 No development shall take place until a detailed scheme and programme of measures to suppress dust and a programme of air quality monitoring have been submitted to and approved in writing by the Local Planning Authority. Development shall proceed in accordance with the approved scheme and programmes.

Vehicle access

- 11 There shall be no other vehicle access into or out of the site for the approved works other than at the A470(T) roundabout at Rhydycar.

Transportation of materials

- 12 All vehicles shall enter the A470(T) from the site in a clean condition. All laden vehicles leaving the site shall be sheeted over. A scheme for facilities for wheel cleansing shall be submitted to and approved in writing by the Local Planning Authority before any construction works commence on site. The facilities shall be installed in accordance with the approved scheme before development commences and maintained in use for the duration of the development.

Contamination assessment

- 13 No development shall commence until:-
- a. The application site has been subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved in writing by the local planning authority.
 - b. Detailed proposals in line with current best practice for the removal, containment, or otherwise rendering harmless such contamination ("the contamination proposals") has been submitted to and approved in writing by the local planning authority.
 - c. For each part of the development, the contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such developments, as appropriate.
 - d. If, during development works, any contamination shall be encountered which was not previously identified and is derived from a different source and/or of a different type from that included in the contamination proposals then revised contamination proposals shall be submitted to and approved in writing by the local planning authority within 5 working days.
 - e. If during development work contaminants are found in areas previously expected to be clean then their remediation shall be carried out in line with the approved contamination proposals.

Prevention of pollution of the water environment

- 14 Watercourses, including any bank side trees or vegetation within 7 metres of the watercourse shall be protected from any development.
- 15 Before the development is begun, a detailed assessment and scheme of measures to prevent pollution of the water environment, including a comprehensive drainage and lagoon system to intercept and treat any contaminated surface water run off from the area, together with a timetable for provision of the proposed measures, shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.
- 16 Prior to commencement of any development, a scheme detailing facilities for the storage of oils, fuels or chemicals shall be submitted for the written approval of the local planning authority. Such facilities shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank or the combined capacity of interconnected tanks plus 10%. All filling points vents gauges and site glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Ecological management plan

- 17 Prior to the commencement of development a comprehensive ecological survey shall be undertaken of the whole site, and a strategic ecological management plan shall be submitted to and approved in writing by the local planning authority. The survey shall include all species listed under Schedules 2 or 4 of the Conservation (Natural Habitats, etc.) Regulations 1994, associated habitats and the Cwm Glo SSSI. The plan shall include measures for the protection of such species and/or their habitats during and following completion of the development, including details of habitat translocation, management proposals for retained and transferred habitats and monitoring of all such habitats. The strategic ecological management plan shall be implemented as approved unless otherwise agreed in writing with the local planning authority.

Drainage

- 18 No development shall commence until a comprehensive drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall indicate how foul water from site compounds and offices, surface water and land drainage will be dealt with. The scheme shall provide for attenuation of run-off rates to those rates existing pre-development. Development shall be carried out in accordance with the approved scheme.

Illumination

- 19 Before development commences a scheme shall be submitted to and approved in writing by the local planning authority indicating the position, design, type and hours of operation of all illumination facilities to be employed at the site and the measures to be incorporated to minimise glare and nuisance. The lighting scheme as approved shall be implemented for the duration of the development and removed upon completion of the development.

Landscaping and habitat proposals

- 20 Prior to the commencement of development a phased programme for the structural landscaping and habitat conservation of the site shall be submitted to and approved in writing by the local planning authority. The scheme shall include the following:
- (i) details of features to be retained protected and managed, to include existing woodlands, hedgerows, grassland, ponds, trees and other habitats;
 - (ii) planting and maintenance of new landscaping and other habitats;
 - (iii) creation/restoration of landscape in line with local and regional character;
 - (iv) techniques and practices for establishing vegetation;
 - (v) sources of habitat material;
 - (vi) monitoring, review and remedial measures;
 - (vii) scheme of maintenance;
 - (viii) programme of implementation

The phased programme details shall be carried out as approved. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with other of similar size and species, unless the local planning authority gives written consent to any variation.

Archaeology

- 21 No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority, and arrangements for its implementation secured. The programme of archaeological work shall thereafter be carried out in accordance with the scheme of investigation so approved.
- 22 No development shall take place until measures, details of which shall first be submitted to and approved in writing by the local planning authority, for the temporary protection of those archaeological sites or historic landscape features identified for retention in the written scheme of investigation have been put in place in accordance with the approved details.

Afteruse

- 23 Prior to commencement of any development, a scheme detailing the proposed afteruse of the site (either permanent or temporary pending longer-term development) shall be submitted to and approved in writing by the local planning authority.

Land Drainage

- 24 Throughout the period of development, restoration and aftercare, the developer shall:
- (i) Protect and support any ditch, watercourse or culvert passing through the site, or satisfactorily divert it, and shall not impair the flow or render less effective drainage on it and from adjoining land.
 - (ii) Provide for the collection, treatment and disposal of all water entering or arising on the site, including any increased flow from the land, to ensure that there is no pollution or damage to watercourses by the approved operations.
 - (iii) The developer shall ensure that any flow of water used for agricultural purposes that is adversely affected by the development is reinstated in a satisfactory manner, including the provision of alternative supplies during the course of operations.

Site Maintenance

- 25 All injurious weeds, as defined by the Weeds Act 1959, growing within the development area shall be eradicated or adequately controlled by a method to be approved in writing by the local planning authority. All vegetation growing on soil storage bunds and peripheral areas within the site shall be kept in a tidy condition by cutting at least once during the growing season. The boundaries of the areas of development shall be made stockproof for the duration of the development, including throughout the period of aftercare.

Soil Stripping and Storage

- 26 Natural soils (topsoil and upper subsoil) shall be stripped and conserved from all areas used for excavations, earthworks, trafficking, hardstandings, site compounds, roads, buildings and site drainage works. Sufficient soil forming material shall be recovered to ensure that the restored soil profile is no less than 0.5m (settled) in depth, except where otherwise agreed in writing with the Planning Authority. The developer shall be responsible for ensuring that all soil forming material to be used within the restored soil profile is suitable for that purposes prior to selection and storage. Topsoil, subsoil and soil forming material shall be stored in separate storage bunds, placed in approved locations and constructed to ensure secure storage without damage, loss or contamination, and thereafter maintained in a tidy condition. No soil material shall be removed from the site.

Japanese knotweed

- 27 Prior to commencement of any development, a scheme detailing the treatment of all areas of Japanese Knotweed on site shall be submitted to and approved in writing by the local planning authority. The Japanese Knotweed shall be treated in accordance with the approved scheme and the timetable included therein.

PLANNING APPLICATION NO: 020260

Consistency with outline site plan

- 1 The development details submitted pursuant to this permission shall be consistent with the broad illustrative site plan details shown on drawing ref. 013045-10-21 P2. A site development masterplan and phasing programme for the development shall be submitted to and approved in writing by the local planning authority before any development commences. The development of the site and all its component elements shall be undertaken in accordance with the approved development masterplan and phasing programme unless otherwise agreed in writing by the local planning authority.

Approval of reserved matters

- 2 Details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of each phase identified in the phasing programme required by condition 1 (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the local planning authority prior to the commencement of any development on that phase and carried out in accordance with the details so approved.
- 3 In addition to the "reserved matters" referred to in condition 2, details of the following for each phase of the development shall also be submitted to and approved in writing by the local planning authority before any development comprised in that phase commences:
- i) existing and proposed site levels, including full cross sectional drawings;
 - ii) proposed levels of all buildings to be erected, shown relative to adjoining ground level;
 - iii) full details of all fences, walls (including any retaining walls in excess of 1 metre in height with, where appropriate, structural calculations) and other means of enclosure;
 - iv) details of earthworks including the proposed grading and mounding of land areas and the levels and contours to be formed; and showing the relationship of proposed mounding to existing vegetation and surrounding landform, together with any impact of earthworks on those archaeological sites and historic landscape features listed within the relevant sections of the Environmental Management Plan for the site (required under the terms of the section 106 agreement relating to the development);
 - v) details of all permanent external illumination.
- 4 A detailed design statement shall be submitted to and approved in writing by the local planning authority for each phase of residential development and for the principal retail, leisure and business phases of the development prior to the commencement of any such

phase. The development shall be carried out in accordance with the design statement, as approved.

Time limits

- 5 Applications for approval of all the “reserved matters” referred to in condition 2 of this permission shall be made to the local planning authority before the expiration of 5 years from the date of this permission.
- 6 The development hereby permitted shall commence either before the expiration of 7 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Ground conditions

- 7 No development of any phase shall take place until appropriate site investigations have been carried out at the part of the site covered by that phase and a scheme to deal with existing ground conditions has been submitted to and approved in writing by the local planning authority. Any such scheme shall include an investigation and assessment to identify those precautions or measures deemed to be required in the design and construction of the proposed development in order to minimise any damage which might arise as a result of ground conditions. All built development shall be constructed in accordance with the approved scheme.

Contamination

- 8 No development shall take place within any phase until a scheme and timetabled programme of measures to investigate and treat potential site contamination on the land covered by that phase has been submitted to and approved in writing by the local planning authority. All remediation works deemed appropriate shall be carried out in accordance with the approved details and timetable.

Groundwater

- 9 Prior to the commencement of the development, a groundwater report shall be submitted to and approved in writing by the local planning authority, assessing the potential for ground/groundwater contamination within the development boundary and outlining the methods to be employed to prevent such contamination occurring during the course of development. This shall include an assessment of risk to the aquatic environment. The report shall include details of a groundwater monitoring programme, together with details of the range of measures to be taken in the event of contamination arising at any time during the carrying out of development and the circumstances where each possible course of action will be appropriate. The methodology set out in the approved report shall be adhered to throughout all phases of the development hereby permitted.

Foul and surface water drainage

- 10 Prior to the commencement of development plans for a comprehensive drainage system to intercept and treat foul and surface water run-off from the development as a whole shall be submitted to and approved in writing by the local planning authority. This should:

- ensure run-off rates in any catchment area shall not be increased by the proposed development;
- include calculations indicating run-off quantities before and after the proposed development;
- indicate all pipes and ditch sizes, gradients and capacities;
- include any attenuation required in order to cope with a 1:100 year storm in both temporary and permanent conditions;
- include improvement works to the culvert described as No. 1 in the Environmental Statement, located on Nant Rhydycar, on the western side of A470(T).
- Throughout the development the surface water drainage system shall incorporate Sustainable Urban Drainage Scheme (SUDS) principles.

Such a scheme shall be based upon a full hydrological and hydrogeological surveys, together with surveys of all downstream-receiving water courses and culverts to ensure they will not be adversely affected by any increase in quantity of water discharging from the development site. The system shall be installed in accordance with the approved scheme as part of the permitted development.

Japanese knotweed

- 11 Prior to commencement of any development, a scheme detailing the treatment of all areas of Japanese Knotweed on site shall be submitted to and approved in writing by the local planning authority. The Japanese Knotweed shall be treated in accordance with the approved scheme and the timetable included therein.

Highways and junction improvements and estate roads

- 12 The primary means of vehicle access to serve the development shall be via the roundabout junction at the A470(T) Rhydycar junction. No other development shall commence on the site until this junction has been completed in accordance with the approved details of development. Details of the primary access road into the site shall be approved in writing by the local planning authority local planning authority; and no other development within the site shall commence until the primary access road has been constructed in accordance with the approved details.
- 13 Prior to the commencement of development a scheme showing the layout and specification of all main estate roads and servicing shall be submitted to and approved in writing by of the local planning authority.
- 14 No development shall take place until a scheme for the improvement of the A470/Swansea Road junction has been submitted to and approved in writing by the local planning authority in consultation with the Welsh Assembly Government. Such a scheme shall accord with the scheme shown indicatively in Figure 7.2 of the Parsons Brickerhoff Merthyr Village Transport Assessment dated April 2006 (Report Number HTC91331A/1.3). Such a scheme shall also include a detailed phasing and implementation plan which will identify a date by which the proposed improvements shall be implemented and completed, which date shall be within 4 years of the anticipated occupation of any part of the site pursuant to this permission. Thereafter the improvement scheme shall be carried out in accordance with the agreed scheme and accompanying phasing and implementation plan unless otherwise agreed in writing by the local planning authority in consultation with the Welsh Assembly Government. In any event the scheme shall be completed within 4 years of the earliest occupation of any part of the development hereby permitted.

- 15 No development shall take place until a scheme for the improvement of the A470/Rhyd-y-car junction has been submitted to and approved in writing by the local planning authority in consultation with the Welsh Assembly Government. Such a scheme shall accord with the scheme shown indicatively in Figure 7.3 of the Parsons Brickerhoff Merthyr Village Transport Assessment dated April 2006 (Report Number HTC91331A/1.3). Such a scheme shall also include a detailed phasing and implementation plan which will identify a date by which the proposed improvements shall be implemented and completed, which date shall be within 3 years of the anticipated occupation of any part of the site pursuant to this permission. Thereafter the improvement scheme shall be carried out in accordance with the agreed scheme and accompanying phasing and implementation plan unless otherwise agreed in writing by the local planning authority in consultation with the Welsh Assembly Government. In any event the scheme shall be completed within 3 years of the earliest occupation of any part of the development hereby permitted.

Construction works - pollution prevention measures

- 16 Prior to the commencement of development on each phase designated pursuant to Condition 1, a detailed method statement for that phase, describing the works to be undertaken and any necessary pollution prevention measures during the construction process, shall be submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved method statement.

Construction - hours of operation

- 17 Prior to the commencement of development on each phase designated pursuant to Condition 1, a scheme identifying noise sensitive areas within that phase and containing a detailed method statement describing proposed noise minimisation measures during construction in relation to such areas shall be submitted to and approved in writing by the local planning authority. All works in relation to the relevant phase shall be carried out in accordance with the approved method statement. Within each noise sensitive area identified no development operations shall be carried out, except in emergencies (i.e. in order to prevent injury to persons or serious damage to property), other than between the following times:-

Monday – Friday	08.00 – 18.00 hrs
Saturday	08.00 – 13.00 hrs
Sunday /Public Holidays	No working

Wheel cleansing facilities

- 18 Prior to the commencement of each phase of the development a scheme for wheel cleansing facilities for that phase for construction and other vehicles shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented and operated in accordance with the approved details throughout the construction period of that phase of the development.

Dust control/prevention

- 19 Prior to the commencement of development on any phase designated pursuant to Condition 1 a detailed scheme and programme of measures to suppress dust and a programme of air quality monitoring for that phase shall be submitted to and approved in writing by the local

planning authority. Any mitigation measures shall be based upon those set out in the Environmental Statement accompanying the application. Such mitigation/suppression measures shall be implemented, and monitoring carried out, in accordance with the approved scheme.

Illumination

- 20 Details of the position, design, type and hours of operation of any illumination facilities at the site and the measures to be incorporated to minimise glare and nuisance shall be submitted to and approved in writing by the local planning authority prior to installation. The facilities installed shall comply with and be operated in accordance with the approved details.

Archaeology

- 21 No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority, and arrangements for its implementation secured. The scheme shall derive from the Environmental Management Plan and Archaeological Mitigation Strategy which form part of the section 106 agreement associated with this permission. The programme of archaeological work shall thereafter be carried out in accordance with the scheme of investigation so approved.
- 22 No development shall take place until a programme/method statement for the temporary protection during development of those archaeological sites or historic landscape features identified in the Environmental Management Plan and Archaeological Mitigation Strategy (forming part of the section 106 agreement) has been submitted to and approved in writing by the local planning authority. The approved programme/method statement of protection measures shall be complied with at all times during the development process.

Ecological management programme

- 23 Prior to the commencement of each phase of the development approved under condition 1, a detailed ecological management programme for that phase shall be submitted to and approved in writing by the local planning authority. The ecological management programme shall accord with the provisions of the strategic ecological management plan approved pursuant to phase 1 planning permission ref. 020060 and shall be carried out as approved unless otherwise agreed in writing by the local planning authority.

Landscaping programme

- 24 Prior to the commencement of each development phase approved under condition 1, a detailed landscaping programme for that phase, in accord with the principles of the Landscape Masterplan forming part of the section 106 agreement associated with this permission, shall be submitted to and approved in writing by the local planning authority. The landscaping programme within each phase shall be carried out as approved, and shall be completed before the end of the first planting season following occupation of the last building constructed within that phase. If within a period of 5 years from the date of planting any tree is removed, uprooted or becomes seriously damaged or diseased, another tree of a similar species and size shall be replanted at the same place unless otherwise agreed in writing by the local planning authority.

Retailing

- 25 The retail floorspace hereby approved shall be used for the sale of non-food goods only and for no other purpose in Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order with or without modification).
- 26 No mezzanine floors installed within the retail units hereby approved shall be used for retail display or sales purposes.
- 27 No individual retail premises within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order with or without modification) shall have a gross area of less than 929 sq metres.

Petrol filling station

- 28 The site identified for use as a petrol filling station shall be used for that purpose only and shall not be used for the sale, display or repair of motor or other vehicles.

Estate roads and parking

- 29 No building shall be occupied within each phase until those parts of the estate, service and other internal roads and turning areas which provide access to them have been constructed in accordance with the approved plans.
- 30 Prior to the commencement of development a scheme of public footpath/bridleway provision throughout the development and linking to existing public rights of way, claimed rights of way and open access land, together with a programme for its implementation, shall be submitted to and approved in writing by the local planning authority. Public footpath /bridleway provision shall thereafter be made in accordance with the approved scheme.

Noise

- 31 The rating level of noise emitted from all fixed and mobile plant on the site shall not exceed the existing background noise level (determined as LA90T) dB by more than 5 dB(A), the measurement and assessment of which shall be made in accordance with BS 4142:1997. Noise arising from the approved operations shall not exceed the following levels at the following noise monitoring locations:

Noise Monitoring Location	Background Level (LA90) 2001	Maximum permitted background noise level (LAeq) (1 hr - daytime)
Location A: Andrews Close, Heolgerrig	35dB	45dB
Location B: Brondeg	37dB	47dB
Location C: Caerwern, Ynysfach	48dB	55dB
Location D: Lewis Square, Upper Abercanaid	46dB	55dB

LIST OF APPEARANCES

FOR THE APPLICANT:

Mr Russell Harris, QC

Instructed by Cushman & Wakefield Healey & Baker,
representing Merthyr Village Ltd.

He called

Mr Michael Crook MA Chairman of Planning and Environment Dept, Cushman
DipProjMan FRICS & Wakefield, Healey & Baker

Professor Max Munday BSc Director, Welsh Economy Research Unit, Cardiff
PhD Business School

Mr Mark Bradbury BSc Director Merebrook Consulting Engineers Ltd
CEng MICE

Mr Finbarr Batt BSc CEng Merebrook Consulting Engineers
MISTE

Mr Ianto Wain BA Joint Head of Heritage Management Services Dept,
DipArchaeol Oxford Archaeology

Dr Neil Humphries BSc MA Company Director, White Young Green Environmental
PhD CSci CBiol Ltd
MIPSS FIQ

Mr Andrew Roberts MLI Associate Director, White Young Green Environmental
Ltd

Mr Andrew Stoneman BA Associate, Parsons Brinckerhoff Ltd
MSc

Mr Huw Williams BA Partner, Planning and Environment Dept, Cushman &
MRTPI Wakefield, Healey & Baker

FOR THE LOCAL PLANNING AUTHORITY:

Mr Jonathon Easton, of Counsel

Instructed by Merthyr Tydfil County Borough Council

He called

Mr Alistair Neill Chief Executive, Merthyr Tydfil CBC

Cllr Harvey Jones Leader, Merthyr Tydfil CBC

FOR CADW:

Mr Richard Turner MA FSA

Inspector of Ancient Monuments, Cadw

He called

Ms Judith Alfrey BA MA Inspector of Historic Buildings, Cadw
Mr Niall Oakey BA MA Assistant Company Manager and Director,
MIFA Archaeological Investigations Ltd, Hereford
Mr Neil Maylan BA MIFA Senior Development Control Officer, Curatorial
Division, Glamorgan-Gwent Archaeological Trust
Mr Richard Turner MA Inspector of Ancient Monuments, Cadw
FSA

FOR COUNTRYSIDE COUNCIL FOR WALES:

Mr Brian Smith LLB Solicitor, Browne Jacobson LLP
He called
Dr David Gwyn MA PhD Independent Heritage Consultant and Lecturer in
MIFA FSA Heritage Management, University of Wales, Bangor
Ms Gillian Barter BSc Team Leader (Vale and Valleys Area), CCW
Mr T H Blackstock BSc Head of Terrestrial Sciences Group, CCW
Mr Ray Woods BSc Science Advisor to CCW
Dr Elizabeth Ann Howe Species Team Leader and Herpetologist, Terrestrial
BSc PhD Sciences Group, CCW
Ms Karen Maddock-Jones Planning Officer, CCW
BA DipUPIg MRTPI

FOR MERTHYR INITIATIVE GROUP:

Mr Anthony Chaplin 10 Andrews Close, Heolgerrig, Merthyr Tydfil CF48
1SS
He called
Himself
Mrs Charlotte Connolly Brondeg, Heolgerrig, Merthyr Tydfil
Mr Malcolm Connolly Greenacres, Brondeg, Heolgerrig, Merthyr Tydfil
Mr Neil Jones Butterfly Conservation Group

INTERESTED PERSONS/ORGANISATIONS:

Rhydyar West Regeneration
Partnership (Mr S P Brown)

Merthyr Tydfil Anti Opencast
Campaign (Mr S P Brown)

Wildlife Trust for South and West
Wales (Mr N J Ajax Lewis)

Merthyr Tydfil and District
Naturalists' Society (Mr B M
Thomas)

Merthyr Tydfil Group of the
Ramblers' Association (Mr A
Dyment)

Mr M Molloy, 1 Durham Close,
Shirley Gardens, Heolgerrig,
Merthyr Tydfil CF48 1SL

Mr J L Stansfield, 1 St John's Close,
Cefn Coed, Merthyr Tydfil

Ms K Davies, County Access and Stable Lodge, Abercanaid, Merthyr Tydfil
Bridleway Officer for the British
Horse Society

Mr R Baker, 1 Monmouth Drive,
Castle Park, Merthyr Tydfil

Cllr A Baynham Cefn Coed, Merthyr Tydfil

INQUIRY DOCUMENTS

Document	1	Lists of persons present at each day of the inquiry
Document	2	Inquiry publicity/notification details
Document	3	NAW call-in letter dated 7 March 2003
Document	4	Letter dated 3 August 2005 setting out the matters which the Assembly particularly wishes to be informed about for the purposes of its consideration of the applications
Document	5	Application Ref 020060 dated 28 February 2002
Document	6	Application Ref 020260 dated 3 July 2002
Document	7	National Assembly letters dated 18 and 26 November 2004 concerning the environmental statements submitted with the applications
Document	8	Inspector's request for additional information under Regulation 19(1) of the Town and Country Planning (Environmental Impact) Regulations
Document	9	Completed s106 agreement dated 14 July 2006
Document	10	Correspondence concerning minor corrections to s106 agreement
Document	11(i) & (ii)	Draft conditions for P/020060 and P/020260 as suggested by the parties

Inquiry Core Documents

National guidance

Document	CD1.1	People, Places, Futures - The Wales Spatial Plan - November 2004
Document	CD1.2	Planning Policy Wales - March 2002
Document	CD1.3	Ministerial Interim Planning Policy Statement – Retailing & Town Centres - December 2005
Document	CD1.4	Minerals Planning Policy Wales - December 2000
Document	CD1.5	Planning Guidance (Wales) Technical Advice Note (Wales) 1: Joint Housing Land Availability Studies - October 1997
Document	CD1.6	Planning Policy Wales Technical Advice Note 1 Consultation Draft: Joint Housing Land Availability Studies - July 2005
Document	CD1.7	Planning Guidance (Wales) Technical Advice Note (Wales) 2: Planning and Affordable Housing - November 1996
Document	CD1.8	Planning Policy Wales Technical Advice Note 2 Consultation Draft: Planning and Affordable Housing - July 2005
Document	CD1.9	Planning Guidance (Wales) Technical Advice Note (Wales) 4: Retailing and Town Centres - November 1996

Document	CD1.10	Planning Guidance (Wales) Technical Advice Note (Wales) 5: Nature Conservation and Planning - November 1996
Document	CD1.11	Planning Guidance (Wales) Technical Advice Note (Wales) 10: Tree Preservation Orders - October 1997
Document	CD1.12	Planning Guidance (Wales) Technical Advice Note (Wales) 11: Noise - October 1997
Document	CD1.13	Planning Policy Wales Technical Advice Note 12: Design - 2002
Document	CD1.14	Planning Guidance (Wales) Technical Advice Note (Wales) 13: Tourism - October 1997
Document	CD1.15	Planning Policy Wales Technical Advice Note 15: Development and Flood Risk - July 2004
Document	CD1.16	Planning Guidance (Wales) Technical Advice Note (Wales) 16: Sport and Recreation - March 1998
Document	CD1.17	Technical Advice Note (Wales) 18: Transport - Consultation Draft March 2001
Document	CD1.18	The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999
Document	CD1.19	Circular 11/99 Environmental Impact Assessment (EIA)
Document	CD1.20	NAW Circular 23/2001 New Guidance for Local Planning Authorities on European Protected Species and Changes in Licensing Procedures
Document	CD1.21	Circular 60/96 Planning and the Historic Environment: Archaeology
Document	CD1.22	Minerals Planning Guidance Note 3 - Coal Mining and Colliery Spoil Disposal - 1994
Document	CD1.23	Minerals Planning Guidance Note 7 - The Reclamation of Mineral Workings - 1989
Document	CD1.24	Minerals Planning Guidance Note 11 - The Control of Noise at Surface Mineral Workings - 1993
Document	CD1.25	Minerals Planning Guidance Note 12 - Treatment of Disused Mine Openings and Availability of Information on Mined Ground - 1994
Document	CD1.26	County Planning Officers' Society Good Practice Guide for Mineral Planning Conditions - 1995
Document	CD1.27	Heads - We Win: A Strategic Framework for the Heads of the Valleys Welsh Assembly Government Consultation Draft March 2005
Document	CD1.28	Consultation on Draft Revised Technical Advice Note 5 Nature Conservation and Planning - January 2006
Document	CD1.29	Delivering Better Development Plans for Wales, Consultation Document - Welsh Assembly Government June 2004

Local Planning Guidance

Document	CD2.1 & 2.1a	Merthyr Tydfil Borough Local Plan 1996 - 2006 - Adopted May 1999 and Proposals Map
Document	CD2.2	Mid Glamorgan (Merthyr Tydfil County Borough) Replacement Structure Plan 1991 - 2006 - Adopted August 1996
Document	CD2.3 & 2.3a	Merthyr Tydfil Countryside Strategy 1997-2002 and Action Programme 1999-2002
Document	CD2.4	Merthyr Tydfil Joint Housing Land Availability Study - June 2003
Document	CD2.4a	Merthyr Tydfil Housing Needs Study 2003-2004 (Report of Findings Vol 1) - Opinion Research Services
Document	CD2.5	Merthyr Tydfil Biodiversity Action Plan 2002-2007
Document	CD2.6	Coed Merthyr Strategy and Implementation - May 1998
Document	CD2.7	Register of Landscapes of Outstanding Historic Interest in Wales
Document	CD2.7a.	Guide to Good Practice on Using the Register of Landscapes of Historic Interest in Wales in the Planning and Development Process
Document	CD2.8 & 2.8a	Merthyr Tydfil Landmap – Vol 1 Landscape Assessment and Vol 2 Landscape Strategy - August 2002
Document	CD2.9	Historic Landscape Characterisation (GGAT) – March 2002
Document	CD2.10	The Big Heart of Merthyr Tydfil. A Town Centre Strategic Framework and Action Plan (Urbed) - 2003
Document	CD2.11	Merthyr Development Strategy (WS Atkins) - 2005
Document	CD2.12	West Merthyr Historic Landscape Study (Archaeological Investigations Ltd) – May 2004
Document	CD2.13	Guidelines for the Selection of Wildlife Sites in South Wales (South Wales Wildlife Sites Partnership - 2004

Other Guidance and Legislation

Document	CD3.1	A Better Quality of Life, a strategy for sustainable development for the UK – DETR 1999
Document	CD3.2	Wildlife and Countryside Act 1981
Document	CD3.3	Countryside and Rights of Way Act 2000
Document	CD3.4	The Conservation (Natural Habitats, &c.) Regulations 1994
Document	CD3.4a	European Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (1992)

Document	CD3.5	Human Rights Act 1998
Document	CD4.1	Statement of common ground agreed by Merthyr Village Ltd, Merthyr Tydfil CBC, CCW and Cadw
Document	CD5.1	Report on application P/02/0060 (Phase 1 application) to Merthyr Tydfil CBC Special Council Meeting held on 19 December 2002
Document	CD5.2	Minutes of Special Council Meeting on 19 December 2002
Document	CD5.3	Report to Special Planning and Regulatory Committee Meeting of 13 February 2003 recommending appropriate planning conditions for Phase 1 development
Document	CD5.4	Minutes of Special Planning and Regulatory Committee Meeting of 13 February 2003
Document	CD6.1	CDRom containing proposals documentation submitted to Assembly Government following call-in decision
Document	CD6.2	Indicative Phase 2 proposals drawing ref. 013045-10-21 P2
Document	CD6.3	Combined Annexe for Phase 1 & 2: Amended drawings September 2005
Document	CD6.4	Merthyr Village Ltd summary planning statement, June 2002
Document	CD6.5	Note for Merthyr Village Ltd concerning ecology matters in Planning Officer report on Phase 2 application P/02/0260 (August 2005)
Document	CD6.6	Report on application P/02/0260 (Phase 2 application) to Merthyr Tydfil CBC Full Council Meeting held on 14 September 2005
Document	CD6.7	Supplementary statement on behalf of Merthyr Village Ltd in response to Planning Officer report on Phase 2 application P/02/0260
Document	CD6.8	Report on application P/02/0260 (Phase 2 application) to Merthyr Tydfil CBC Special Full Council Meeting held on 26 September 2005
Document	CD6.9	Minutes of Full Council Meeting on 14 September 2005
Document	CD6.10	Minutes of Special Full Council Meeting on 26 September 2005
Document	CD6.11	Report to Committee Meeting of 11 January 2006 on planning agreement pursuant to Council resolution on 26 September 2005
Document	CD6.12	Report to Special Council Meeting of 16 January 2006 on planning agreement pursuant to Council resolution on 26 September 2005
Document	CD6.13	Draft Minutes of Full Council Meeting on 16 January 2006

Document CD6.14 Report to Planning and Regulatory Committee Meeting of 16 March 2005 on Cyfarthfa retail park development planning application

Document CD6.15 Response to summary of Nathaniel Lichfield Partners comments on Retail Impact Assessment carried out for Merthyr Village proposal

Environmental Statement

Document ES Vol 1 ES Phase 1 Land Reclamation Scheme (Rev B July 2004)

Document ES Vol 2 ES Phase 1 Land Reclamation Scheme Executive Summary (Rev B July 2004)

Document ES Vol 3 ES Phase 2 Environmental Statement and Drawings (July 2004)

Document ES Vol 4 ES Phase 2 Non-Technical Summary (July 2004)

Document ES Vol 5 ES Phase 2 Appendices 1 ADAS Soil Survey; 2 Coal Mining Report (Feb 2001); 3 History of Site & Environs; 4 Baseline Ecological Survey; 5 Archaeological Interests; 5A Archaeological Interests no longer affected (July 2004)

Document ES Vol 6 ES Phase 2 Appendix 6A Transport Assessment - Replacement Mar/Apr 2003 Part 1 (July 2004)

Document ES Vol 7 ES Phase 2 Appendix 6A Transport Assessment - Replacement Mar/Apr 2003 Part 2 (July 2004)

Document ES Vol 8 ES Phase 2 Appendix 6B Transport Assessment Addendum 1 - Mitigation Measures (July 2004)

Document ES Vol 9 ES Phase 2 Appendices 7 Air Quality Assessment & 8 Noise Assessment (July 2004)

Document ES Vol 10 ES Phase 2 Appendix 9A Retail and Leisure Assessment – Updated June 2004 (July 2004)

Document ES Vol 11 ES Phase 2 Appendix 10 Design Statement (July 2004)

Document ES Vol 12 ES Phase 2 Appendix 11 Landscape and Visual Assessment (July 2004)

Document ES Vol 13 ES Phase 2 Appendix 12 ASIDOHL Report - July 2002 (July 2004)

Additional Studies/Analysis Supplementing the Environmental Statement

Document ES A1 Combined Annexe for Phase 1 and 2: Assessment Required by Welsh Assembly Government (February 2005)

Document ES A2 Combined Annexe for Phase 1 and 2: Assessment Required by WAG: Amended Drawings reflecting Proposal Changes (February 2005)

Document ES A3 ASIDOHL conducted by Oxford Archaeology (February 2005)

Document ES A4 Additional Visual Impact Drawings, barKonsult (February 2005)

Document	ES A5	Humphries Rowell Associates/White Young Green Environmental Great Crested Newt Survey & Assessment (July 2005)
Document	ES A6	Humphries Rowell Associates/White Young Green Environmental Bat Survey & Assessment (July 2005)
Document	ES A7	Humphries Rowell Associates/White Young Green Environmental Moth Survey (July 2005)
Document	ES A8	Humphries Rowell Associates/White Young Green Environmental Baseline Ecological Report: Assessment of Current Nature Conservation Interest (March 2005)
Document	ES A9	Humphries Rowell Associates/White Young Green Environmental Phase 1 Reclamation Scheme - Assessment of Potential Impacts on Flora & Fauna (March 2005)
Document	ES A10	Humphries Rowell Associates/White Young Green Environmental Phase 2 - Assessment of Potential Impacts on Flora & Fauna (March 2005)
Document	ES A11	Humphries Rowell Associates/White Young Green Environmental - Annexe 8: Otter & Water Vole Survey (December 2004)
Document	ES A12	Humphries Rowell Associates/White Young Green Environmental - Annexe 9: Protected Species Review 2002 (Marsh Fritillary) (December 2004)
Document	ES A13	Merebrook Consulting Engineers Ltd/White Young Green/Oxford Archaeology - Further Information Required Relating to the Proposed Southern Access at Abercanaid (January 2006)

Proofs of Evidence and Supplementary Documents for Merthyr Village Ltd (Applicant)

Document	MV 1	Proof of Evidence of Mr Michael Crook (Cushman & Wakefield Healey & Baker) on Planning Policy with Appendices: Appendix MC1: Provisional programme for the development Appendix MC2: Analysis of structure and local plan policies (revised) Appendix MC3: NAW guidance note on new development plans
Document	MV 2	Proof of Evidence of Professor Max Munday (Welsh Economy Research Unit, Cardiff Business School) on Economic Impact of Proposals with Summary and Appendices: Appendix 1: Merthyr Tydfil: Events shaping local economic structure post 1970 Appendix 2: Addendum on Merthyr Tydfil standing on poverty and social inclusion indicators
Document	MV 3	Proof of Evidence of Mr Mark Bradbury (Merebrook Consulting

		Engineers) on Phase 1 Tips and Mineworkings
Document	MV 3A	Appendices to MV 3: 1: Coal Authority mining report 2: Site geological plan 3: Site meeting notes 3 & 22 Nov 2005, site features and hazards 4: Aerial photograph indicating spoil tip footprints 5: Condition survey of former mine workings 6: Supplementary statement on tip remediation works, note of meeting with Merthyr Tydfil CBC engineers on 8 June 2006 and plan
Document	MV 4	Proof of Evidence of Mr Finbarr Batt (Merebrook Consulting Engineers) on Engineering
Document	MV 4A	Appendices to MV 4: 1-6: Extracts from ES documents relating to (1) attenuation ponds; (2) rights of way; (3) air quality; (4) noise; (5) & (6) utilities 7: Hyder Consulting letter of 18/3/02 on drainage discharges 8-11: Extracts from ES documents relating to (8) & (9) air quality; (10) & (11) noise 12: Extract from Environment Agency letter of 23/5/02 on hydro-geology
Document	MV 5	Proof of Evidence of Mr Ianto Wain (Oxford Archaeology) on Archaeology and Cultural Heritage
Document	MV 5A	Oxford Archaeology ASIDOHL for development site: reassessment reflecting correct identification of historic landscape character areas
Document	MV 5B	Additional plans submitted during inquiry concerning archaeological impact of phases 1 and 2 (i) Figure 1: Extant and non-extant features - Phase 1 (ii) Figure 1a: Extant and non-extant features - Phase 2 (iii) Figure 2: Key sites - Phase 1 (iv) Figure 2a: Key sites - Phase 2 (v) Figure 1: Composite overlay - key sites/zones of articulation/phase 2 development (vi) Figure 4: Existing historic features
Document	MV 6	Proof of Evidence of Dr R N Humphries (White Young Green Environmental Ltd) on Ecology and Nature Conservation
Document	MV 6A	Appendices to MV 6: 1: Letter from CCW dated 28 November 2005 2: Cwm Glo SSSI citation 3: Management plan framework and environmental manager remit 4: Notes for management of Cwm Glo SSSI from CCW
Document	MV 6B	Plans & Source of Information Table 1: Sources of baseline information for flora and fauna Plan 1: Areas to be retained and managed Plan 2: Vegetation and habitat plan

		Plan 3: Statutory and non-statutory designated sites and features Plan 4: Location of great crested newt ponds Plan 5: Great crested newt records to the north of the application area Plan 6: Great crested newts mitigation Plan 7: Location of waxcap recording areas
Document	MV 6C	Supplementary evidence to MV 6: Update Bat Report and Assessment, December 2005
Document	MV 6D	Supplementary evidence to MV 6: Wildwood Ecology Bat Survey Report (with Addendum), January 2006
Document	MV 6E	Bundle of additional tables and plan supplementing Dr Humphries' evidence on LBAP priority habitat loss, great crested newt habitat mitigation and fungi distribution patterns
Document	MV 7	Proof of Evidence of Mr Andrew Roberts (White Young Green Environmental Ltd) on Landscape and Visual Assessment
Document	MV 7A	Appendices to MV 7: A: Site plans (Figures 1-8) B: Site illustrations (Figures A-H) C: Site land use details D: Impacts upon landscape character E: Viewpoint analysis
Document	MV 8	Proof of Evidence of Mr Andrew Stoneman (Parsons Brinkerhoff Ltd) on Transport
Document	MV 8A	Merthyr Village Transport Assessment April 2006
Document	MV 8B	Supplementary information on A470/Swansea Road junction
Document	MV 9	Proof of Evidence of Mr Huw Williams (Cushman & Wakefield Healey & Baker) on Retail and Leisure Issues
Document	MV 9A	Appendices to MV 9: 1: Plan 1 - Study area 2: Plan 2 - Comparison retailing facilities 3: Merthyr Tydfil housing survey November 2005 4: Quantitative need assessment
Document	MV 10	Inquiry note addressing procedural matters concerning the phase 1 and phase 2 applications
Document	MV 11	Letter from Commercial Legal Solutions dated 16 June 2006 concerning identity of section 106 agreement signatories
Document	MV 12	Observations of Transport Wales on the Merthyr Village development transport assessment
Document	MV 13	Additional cross sections relating to amended phase 1 proposals
Document	MV 14	Drawing 013045-10-23 P4 "Option 2 Proposed Siteplan": Illustrative

“fine tuning” of submitted indicative masterplan to demonstrate retention of habitat, landscape and archaeological features within phase 2 development framework

Proofs of Evidence and Other Documents for Merthyr Tydfil County Borough Council

- Document MT 1 Proof of Evidence of Mr Alistair Neill, Chief Executive, Merthyr Tydfil County Borough Council
- Document MT 2 Proof of Evidence of Cllr Harvey Jones, Leader of Merthyr Tydfil County Borough Council
- Document MT 3 Schedule and plan summarising status of available housing sites in Merthyr Tydfil and details of other recent/proposed key developments
- Document MT 4 Inquiry note, plan and list concerning status of right of way across the site
- Document MT 5 Documentary information concerning Tree Preservation Orders

Proofs of Evidence and Supplementary Documents for Cadw

- Document CADW A Proof of Evidence of Ms Judith Alfrey, Cadw, on the Historical Significance of the Site
- Document CADW B Proof of Evidence of Mr Niall Oakey, Archaeological Investigations Ltd, on the West Merthyr Historic Landscape Study
- Document CADW C Proof of Evidence of Mr Neil Maylan, Glamorgan-Gwent Archaeological Trust Ltd, on the Proposals in Relation to Local Planning Policies
- Document CADW D Proof of Evidence of Mr Richard Turner, Cadw, on the Proposals in Relation to National Policy Contexts
- Document CADW 1 Extracts from published works on the history of the iron industry in Merthyr Tydfil
- Document CADW 2 Extracts from Register Part 2.1, Landscapes of Outstanding Historic Interest in Wales, covering the Introduction, Merthyr Tydfil and Blaenavon
- Document CADW 3 Map of Merthyr Tydfil showing the main ironworks and their hinterland
- Document CADW 4 Cyfarthfa Ironworks and its surrounding landscape: paintings by William Pamplin (1795) and Penry Williams (1825)
- Document CADW 5 Copies of descriptions, maplets and photos of scheduled ancient monuments and selected listed buildings relating to the Cyfarthfa Ironworks
- Document CADW 6 Extracts from GGAT Report No 2003/09 for Cadw: Historic Landscape Characterisation, Merthyr Tydfil, covering the area of the

Cyfarthfa lease

Document	CADW 7	Extracts from Torfaen CBC, Cadw and RCAHMW 2000, Nomination of the Blaenavon Industrial Landscape for inclusion in the World Heritage List
Document	CADW 8	Aerial photographs of Pen-ffordd-goch and Cwm Llanwenarth, Blaenavon World Heritage Site
Document	CADW 9	Copies of figures taken from Archaeological Investigations Ltd, 2004, West Merthyr Historic Landscape Study
Document	CADW10	Illustration of water balance mechanism
Document	CADW11	England's Historic Landscape (G Fairclough, 1996), from Yesterdays Landscapes, Tomorrow's World (The English Heritage Landscape Project)
Document	CADW12	The Welsh Archaeological Trusts' Curatorial Code of Practice
Document	CADW13	GGAT Curatorial Section responses to Merthyr Tydfil CBC on consultation over Merthyr Village Ltd applications
Document	CADW14	Cadw responses to Merthyr Tydfil CBC on consultation over Merthyr Village Ltd applications
Document	CADW15	Extracts from Inspectors' reports on land reclamation schemes at Winch Fawr West (APP/U6925/A/02/1097644) and Ffos-y-fran, East Merthyr (APP/U6925/X/04/514548)
Document	CADW16	Details of Mid Glamorgan CC World Heritage Site application for Merthyr Tydfil, 1993
Document	CADW17	Brief issued by Cadw for Depicting the West Merthyr Tydfil Historic Landscape, 2004
Document	CADW18	Inquiry Note summarising the factual position concerning the Merthyr Tydfil Historic Landscape and applications for consideration for World Heritage Site status
Document	CADW19	Cadw letter dated 1 February 2006 confirming status and locus of Cadw at the inquiry

Proofs of Evidence and Supplementary Documents for Countryside Council for Wales

Document	CCW A	Proof of Evidence of Dr David Gwyn on Historic Landscape
Document	CCW B	Proof of Evidence of Ms Gillian Barter on Cwm Glo SSSI
Document	CCW C	Proof of Evidence of Dr David Stephens on Habitats: National Perspective
Document	CCW D	Proof of Evidence of Mr Ray Woods on Mycologically Rich Grassland

Document	CCW E	Proof of Evidence of Dr Elizabeth Anne Howe on European Protected Species
Document	CCW F	Proof of Evidence of Ms Karen Maddock-Jones on Sustainability and Access Issues
Document	CCW1	Extracts from Register Part 2:1, Landscapes of Outstanding Historic Interest
Document	CCW2	Register Entry for the Merthyr Tydfil Landscape of Outstanding Historic Interest (appended to Dr Gwyn's evidence)
Document	CCW3	Note on public inquiries involving proposals within the Merthyr Tydfil landscape of outstanding historic interest
Document	CCW4	Note on public inquiries involving proposals within landscapes of historic interest elsewhere in Wales
Document	CCW5	Evans C; The Labyrinth of Flames: Work and Social Culture in early industrial Merthyr Tydfil (University of Wales Press, 1993)
Document	CCW6	Guest R. and Angela V. John: Lady Charlotte: A Biography of the Nineteenth Century (Wiedenfeld and Nicolson, 1989)
Document	CCW7	Laun, J van: Early Limestone Railways (London: Newcomen Society 2001)
Document	CCW8	Rattenbury G and M.J.T. Lewis: Merthyr Tydfil Tramroads and Locomotives (Railway and Canal Historical Society, 2004)
Document	CCW9	Williams G.A.: The Merthyr Rising (Cardiff: University of Wales Press, 1988)
Document	CCW10	Sites of Special Scientific Interest: Encouraging Positive Partnerships DEFRA (2003)
Document	CCW11	Cwm Glo SSSI Citation (appended to Ms Barter's evidence)
Document	CCW12	Vegetation survey and conservation assessment of Cwm Glo and environs, Merthyr Tydfil. CCW staff science report no. 05/3/2
Document	CCW13	Cwm Glo SSSI, Site Management Statement (appended to Ms Barter's evidence)
Document	CCW14	Biodiversity: the UK Action Plan (1994) (HMSO)
Document	CCW15	Biodiversity: the UK Steering Group Report (1995) (HMSO)
Document	CCW16	Habitat Action Plans for Lowland Meadows, Lowland Dry Acid Grassland, Purple Moor-grass & Rush Pastures, Lowland Heathland, Fen, Upland Oakwood and Wet Woodland
Document	CCW17	WAG Environment Strategy for Wales consultation document 2005
Document	CCW18	Going Wild in Wales - Wales Assembly Government (2003).

Document	CCW19	EC Directorate-General Environment's Note to the Habitats Committee of 15 March 2005 on assessment, monitoring and reporting of conservation status
Document	CCW20	The Habitat Survey of Wales, Howe, L., Blackstock, T., Burrows, C., Stevens, J., <i>British Wildlife</i> , 2005
Document	CCW21	Handbook for Phase 1 habitat survey - a technique for environmental audit. JNCC, Nature Conservancy Council, 2003
Document	CCW22	The use of phytosociological data in conservation assessment: a case study of lowland grasslands in mid Wales Yeo, M.J.M, Blackstock, T.H. & Stevens, D.P. <i>Biological Conservation</i> 86, 1998
Document	CCW23	British Plant Communities Vol 3 Grasslands and Montane Communities - General Introduction Cambridge University Press
Document	CCW24	CCW file note on presence and status of ancient woodland near Merthyr Tydfil around SO043050 (2005)
Document	CCW25	The changing extent and conservation interest of lowland grasslands in England and Wales: a review of grassland surveys 1930-84 Fuller, R.M. <i>Biological Conservation</i> 40, 1987
Document	CCW26	Priority habitats of Wales: a technical guide. CCW, Bangor (2003)
Document	CCW27	Analysis of Phase 1 habitat survey data for the site. CCW file note
Document	CCW28	A provisional Red Data Book of British plant communities. Unit of Vegetation Science, Lancaster University report to WWF, 1998
Document	CCW29	A habitats translocation policy for Britain. Joint Nature Conservation Committee, Peterborough (2003)
Document	CCW30	Grassland habitat translocation: the case of Brocks Farm, Devon. English Nature Research Report no. 304 (1999)
Document	CCW31, 33-35, 37	Site photos of Waxcap grassland, Waxcap toadstool diversity, Fairy Club, Olive Coloured Earth Tongue, Pink Waxcap (appended to Mr Woods' evidence)
Document	CCW32	Table and location map of Merthyr Tydfil site grassland fungi (appended to Mr Woods' evidence)
Document	CCW36	Status, distribution and definition of mycologically important grasslands in Scotland. <i>Biological Conservation</i> 111 (2002) (appended to Mr Woods' evidence)
Document	CCW38	Collation of data and information on mycologically important semi natural grasslands in Wales. CCW Contract Science Report No: 565 (2003) (appended to Mr Woods' evidence)
Document	CCW39	The Fungi of Irish Grassland and their value for Nature Conservation, Biology and environment: Proceedings of the Royal Irish Academy, vol. 101B, no. 3 (2001) (appended to Mr Woods' evidence)

Document	CCW40	Waxcap-grasslands - an assessment of English Sites, English Nature Research Report 555 (2003) (appended to Mr Woods' evidence)
Document	CCW41	Convention on the Conservation of European Wildlife and Natural Habitats 1979
Document	CCW42	Eurobats Agreement on the Conservation of European Bats 1991
Document	CCW43	Handbook on the UK status of EC Habitats Directive interest features: provisional data on UK distribution and extent of Annex I habitats and UK distribution and population size of Annex II species JNCC (2002).
Document	CCW44	Post-breeding migrations of newts (<i>Triturus cristatus</i> and <i>T.marmoratus</i>) with contrasting ecological requirements. <i>Journal of Zoology</i> , London 251, (2002)
Document	CCW45	Woodland management and the conservation of the great crested newt (<i>Triturus cristatus</i>). <i>Aspects of Applied Biology</i> 44 (1996)
Document	CCW46	CCW site Newt Map 1 (2005) (appended to Dr Howe's evidence)
Document	CCW47	Great Crested newt Conservation Handbook. Froglife (2001)
Document	CCW48	Assessment of the impacts of the development on great crested newt favourable conservation status (appended to Dr Howe's evidence)
Document	CCW49	CCW site Newt Map 2 (2005) (appended to Dr Howe's evidence)
Document	CCW50	Merthyr Village Phase 2 - assessment of potential impacts on flora and fauna (Map 1 of Humphries Rowell/White Young Green Environmental report for Merthyr Village Ltd)
Document	CCW51	Great Crested Newt Mitigation Guidelines. English Nature (2001)
Document	CCW52	Bat Mitigation Guidelines. English Nature (2004)
Document	CCW53	British Bats. Collins New Naturalist Series, Altringham, J.D (2003)
Document	CCW54	UK Mammals: Species Status and Population Trends. First report by the Tracking Mammals Partnership (2005)
Document	CCW55	A Review and Synthesis of Published Information and Practical Experience on Bat Conservation within a Fragmented Landscape, prepared by BMT Cordah Ltd and The Bat Conservation Trust on behalf of the 3 Welsh National Parks and CCW (2004)
Document	CCW56	Woodland Management for Bats. Forestry Commission, 2005
Document	CCW57	CCW letter of 3 May 2002 to Merthyr Tydfil CBC
Document	CCW58	CCW letter of 10 January 2003 to Merthyr Tydfil CBC
Document	CCW59	CCW letter of 19 February 2003 to Welsh Assembly Government
Document	CCW60	CCW letter of 20 October 2004 to Welsh Assembly Government
Document	CCW61	Map of open access land within the proposed development site

Document	CCW62, 62a	Overlays of principal historical linear landscape features on indicative development proposals plan
Document	CCW63	Dr Gwyn/CCW commentary on Feb 2005 Oxford Archaeology ASIDOHL
Document	CCW64	Dr Gwyn/CCW reworking of Feb 2005 Oxford Archaeology ASIDOHL scores
Document	CCW65	An assessment of the efficiency of capture techniques and the value of different habitats for the great crested newt. English Nature report no. 576
Document	CCW66	The terrestrial summer habitat of radio-tracked greatcrested newts and marbled newts. Herpetological Journal Vol 10 (2000)
Document	CCW67	Analysis of semi-natural grassland retained outwith Phase 2 development footprint
Document	CCW68	CCW letter of 28 November 2005 to Merthyr Village Ltd
Document	CCW69	Note - Draft assessment of Merthyr Village Limited proposal to exclude right of access to part of site for the purpose of avoiding danger to the public
Document	CCW70	Correspondence confirming position in relation to potential SSSI notification of additional areas within the site

Proofs of Evidence and Supplementary Documents for Merthyr Initiative Group

Document	MIG 1	Evidence of Mr Anthony Chaplin and supporting documents and appendices
Document	MIG 2	Main appendices 1-15 to Merthyr Initiative Group evidence
Document	MIG 3	Archaeological appendices 1-8 to Merthyr Initiative Group evidence
Document	MIG 4	Statement of evidence of Mr Neil Jones for Merthyr Initiative Group with appendices concerning nature conservation and ecology
Document	MIG 5	Statement of evidence of Mr Malcolm Connolly for Merthyr Initiative Group with appendices concerning public access
Document	MIG 6	Statement of evidence of Mrs Charlotte Connolly for Merthyr Initiative Group with appendices/photographs and DVD showing important features of the site
Document	MIG 7	Merthyr Initiative Group Response to Merthyr Village Ltd evidence
Document	MIG 8	Merthyr Initiative Group supplementary evidence - archaeology
Document	MIG 9	Merthyr Initiative Group supplementary evidence – public access
Document	MIG 10	Merthyr Initiative Group supplementary evidence concerning waxcap

and great crested newt issues

- Document MIG11 Reports by David Clements Ecology Ltd (May 2006) for Merthyr Tydfil CBC: Surveys and Assessments for SINC designation relating to (i) Cwm Glo and (ii) Rhydycar West areas of site
- Document MIG12 Response to Merthyr Village Limited evidence on transport issues
- Document MIG13 Response to third party representations handed in to resumed Inquiry on 13 June 2006

Statements and Supplementary Documents for other Interested Parties and Persons

- Document OP 1 Statement of Objection with appendices of Rhydycar West Regeneration Partnership (Mr S P Brown)
- Document OP 2 Statement of Objection with appendices of Merthyr Tydfil Anti Opencast Campaign (Mr S P Brown)
- Document OP 3 Proof of Evidence with appendices of Mr N J Ajax Lewis for Wildlife Trust for South and West Wales (opposing the proposals)
- Document OP 4 Statement of Evidence and appendices of Mr B M Thomas for the Merthyr Tydfil and District Naturalists' Society (opposing the proposals)
- Document OP 5 Statement of Mr A Dymont of the Merthyr Tydfil Group of the Ramblers' Association (opposing the proposals)
- Document OP 6 Statement of objection with supplementary material of Mr M Molloy, 1 Durham Close, Shirley Gardens, Heolgerrig, Merthyr Tydfil CF48 1SL
- Document OP 7 Statement of objection with addendum and supplementary material of Mr J L Stansfield, 1 St John's Close, Cefn Coed, Merthyr Tydfil
- Document OP 8 Statement of objection with supplementary material of Ms K Davies, County Access and Bridleway Officer for the British Horse Society
- Document OP 9 Statement of objection of Mr R Baker, 1 Monmouth Drive, Castle Park, Merthyr Tydfil
- Document OP 10 Statement of objection of Cllr A Baynham, Cefn Coed, Merthyr Tydfil

Written Statements/Representations from other Interested Parties and Persons

- Document WS 1 Written statement of objection submitted by Huw Lewis AM (Assembly Member, Merthyr Tydfil & Rhymney)
- Document WS 2 Written statement of objection by FPD Savils PLC on behalf of Diageo Pension Scheme
- Document WS 3 Written observations of Mr M Evans on behalf of the Glamorgan Moth Recording Group

Document	WS 4	Written evidence of Dŵr Cymru/Welsh Water; Summary and correspondence dated 20 September 2005, 10 October 2005 and 4 January 2006
Document	WS 5	Observations of Welsh Development Agency dated 28 September 2005
Document	WS 6	Objection from D & K Morgan, Hyfrydfa, Maes Meyrick, Heolgerrig and Mr & Mrs B Williams, 17 Beechwood Drive, Heolgerrig
Document	WS 7	Objection from Mr A C Cousins, The White House, Cwmglo Road, Heolgerrig
Document	WS 8	Letter of objection from Merthyr Tydfil Town Centre Partnership, c/o Regeneration Department, Civic Centre, Castle Street, Merthyr Tydfil
Document	WS 9	Objection from Miss A Chaplin, 10 Chepstow Close, Castle Park, Merthyr Tydfil
Document	WS 10	Objection from Cyfarthfa Branch Labour Party, c/o Miss A Chaplin (Branch Secretary), 10 Chepstow Close, Castle Park, Merthyr Tydfil
Document	WS 11	Objection from Dr W Manser, The Cottage, Cwmglo Road, Heolgerrig
Document	WS 12	Objection from Mr R H Davies, 11 Rees Street, Twynnyrodyn, Merthyr Tydfil
Document	WS 13	Objection from Mrs J Flower, 6 Japonica Drive, Dowlais, Merthyr Tydfil
Document	WS 14	Statement of objection with appendices A-C of Caerphilly County Borough Council
Document	WS 15	Statement of objection from Merthyr Tydfil Biodiversity Partnership
Document	WS 16	Statement of objection from Swansea Friends of the Earth
Document	WS 17	Representation from Ms C Jones, 6 Jones Street, Penywern, Dowlais with survey details of young people's views on the proposal
Document	WS 18	Representation from Ms B Misselbrook, 2 Coronation Terrace, Heolgerrig on stability and agricultural/land management issues
Document	WS 19	Letter from Mr D Evans, Pitwood House, Glyndyrus Farm, Abercanaid concerning land drainage conditions on the site
Document	WS 20	Letters from Mr M A Short, Graig Farm, Upper Abercanaid concerning ground conditions on the site
Document	WS 21	Comments from Environment Agency on draft section 106 obligation