

March 2014

NEWPORT LOCAL DEVELOPMENT PLAN EXAMINATION

HEARING SESSION 7: EMPLOYMENT

WRITTEN REPRESENTATIONS ON BEHALF OF REDROW HOMES (SOUTH WALES)

Prepared by:

Savills (UK) Ltd
12 Windsor Place
Cardiff
CF10 3BY



Introduction

1. This statement supplements the written representations made on behalf of Redrow Homes (South Wales) (RHSW) to the revised Deposit LDP in respect of the Monmouthshire Bank Sidings site (MBS). It seeks to answer the questions raised by the Inspector on the hearing agenda for the employment session taking place on 10 April 2014.
2. A copy of the representations made at Revised Deposit Stage is reproduced at Appendix 1 for convenience.
3. Essentially, the representations sought to:
 - remove an area of 1.2ha of land controlled by RHSW from the EM2 policy designation on the proposals map;
 - remove references to the need to develop the 1.2ha for B1, B8 or healthcare uses;
 - have no designation on the site to allow maximum flexibility for the context of future planning applications to make use of this brownfield area of land.
4. Background to the site and the concerns over the allocations are set out within the original duly made submission (Appendix 1). This statement seeks to provide further context and information to allow the Inspector to reach conclusions on the questions raised which we consider relevant to our representations. These are dealt with in turn within the sections that follow.

Background

5. Given the site specific questions addressed below, the background to the extant permission and the allocation is important context.
6. The area of concern in these representations is that the 1.2ha of land identified under EM2 (ix). The policy states that regeneration schemes will be encouraged. Supporting text at paragraph 6.24 of the revised deposit LDP states that:

6.24 ... The Unilateral Undertaking identifies this 1.2 ha site for possible employment purposes. The developer is required to undertake a joint marketing strategy for a period of two years (following the implementation of development on Site H14) to secure and promote the land for employment purposes. The Unilateral Undertaking restricts the end user(s) to B1 planning uses only. In the event that a marketing strategy does not identify a commercial developer who is willing to proceed, then the developer will discuss the potential future planning uses of the land with the Council, including B8, Health Trust and residential development could be an option.
7. Whilst the Policy appears not to represent a firm allocation and some flexibility is incorporated in to it, it is not considered to offer sufficient flexibility to encourage a range of suitable uses should a B1 user not be forthcoming.
8. The reference to the UU in para 6.24 applies to the extant planning permission granted at appeal in 2011. Relevant extracts from the S106 are reproduced at Appendix 2. The requirement of the undertaking is that the owner / developer should undertake a 2 year

marketing strategy to seek a commercial developer to secure and promote the employment land for employment / commercial purposes.

9. The reference to 'commercial' is restricted to B1 planning uses only. If a commercial developer is identified through the marketing strategy, then the owner / developer is to assist the commercial developer in securing planning permission for B1 planning uses. In the event of a commercial developer not being identified who is willing to proceed then the owner / developer can discuss with the Council future planning uses of the land.
10. RHSW are planning to commence marketing the site within the coming months.
11. The Plan Period runs until 2026. Feasibly, depending on the how successful the marketing strategy is, RHSW could be in a position during the first quarter of 2016 whereby they are free to discuss / secure alternative uses for the 1.2ha in question. The plan therefore seeks to safeguard the land in question for B1 uses for an unnecessary length of time beyond that which the S106 requires.
12. RHSW have had several approaches from developers for the site, but not for B1, B8 or health care uses. Should the Inspector require evidence of these approaches they can be provided on a confidential basis.

Rationale for excluding the 1.2 ha of land from the residential land use area

13. Evidence presented at the Public Inquiry in to the S78 appeal reviewed the rationale and justification for removing 1.2 ha of land on the MBS site from the residential land area.
14. The 1.2ha was identified as white land within the 2 options for the master plan presented to the Public Inquiry. These are reproduced at Appendix 3.
15. The white land was shown as such in order to create a buffer between the proposed residential land and the railway line and to an area of retained land that would remain operational for Network Rail on the north western corner of the site.
16. Extracts from the Inspector's report to the Minister are reproduced at Appendix 4. Paragraph 206 gives the Inspector's endorsement that this was a sensible and reasonable step to take.
17. The purpose of the white land is therefore more to act as a physical buffer to the railway line and operational land as opposed to providing a specific area of land for B1 use. The land could be considered suitable for a variety of different uses and still perform the function it was intended for.
18. Evidence was presented to the Inquiry by a Savills Office Agency Director setting out why the MBS site was poorly located in order to attract high profile B1 office users.
19. The site was considered to be at best a fringe location in terms of offices. The main city centre retail area is over 1 mile from the site whereas the nearest M4 junction (J28) is circa 1.5m to the west. The view expressed was that it was too far away from any main transport hub and in an inferior location to the motorway junction business parks that serve Newport (Celtic Springs and Langstone) to be competitive.

20. A development of B1 offices at MBS was considered at the time, and is still considered, to represent a fragmentation of the professional and business community in Newport. The conclusion was that there are a wide variety of sites which would be more attractive to office developers / occupiers compared with the MBS sites due to their superior locations. This remains to be the case today.
21. The office market in Newport was considered in the evidence, with notable large scale Grade A office vacancies at Celtic Springs and better located development sites within the city centre at Godfrey Road and George Street. Four years on from the Inquiry, the same vacancies remain.
22. Whilst the marketing exercise required by the S106 will ultimately determine if there is market interest in the site for B1 uses, there is no overriding reason as to why the site is particularly suited in land use terms to B1 uses. This was accepted by the Inspector in his reasoning set out in the decision notice.
23. The Inspector also accepted evidence presented to the Inquiry that there was an abundance of unconstrained employment land in Newport. At paragraph 209, the Inspector makes reference to an agreed position whereby 65 years worth of unconstrained employment land was available. The Inspector noted that in addition to that, there was much more employment land that could come forward in the longer term.
24. Notwithstanding any arguments relating to need, but also noting that employment use of the white land would hold benefits in sustainability terms and social cohesion, he found no compelling evidence to conclude that the reduced amount of employment land on the MBS site would materially reduce the possibility of employment opportunities coming forward on the adjacent site. The adjacent site is also allocated under EM2 (xiii).
25. The Inspector concluded at paragraph 214 that there was no need for additional employment land to be considered as part of the context of the H1 (UDP) allocation.
26. The Inspector went on to consider linkages between the MBS site and the adjacent Whitehead Works site. The conclusion indicates that there is no requirement to secure the white land for B1 uses specifically in order to compliment any future development on the adjacent site.
27. All of the above leads to the conclusion that the land identified under EM2 (ix) would not have any firm justification or rationale for being allocated for B1 uses only.

Inspector's Questions

28. Having established the background to the site, and events leading up to and following the Public Inquiry in 2010, the following answers can be provided to the pertinent questions raised by the Inspector in respect of the MBS site.

What is the rationale for each of the employment land allocations listed under Policy EM2 – does each have a clear purpose and justification in relation to the plan's economic and employment strategy?

29. Whilst this is a question for the Council to answer, the context provided above is relevant in the sense that it reveals that there is no specific or obvious purpose for allocating land in this location for B1 purposes. The regeneration being encouraged within policy EM2 could be

achieved through a variety of different land uses. The aim of the representations is to realise the potential of the land in question by maintaining as much flexibility as possible within the Planning Policy context.

30. Regeneration objectives could be achieved equally well through a variety of uses on this site, not restricted to B1, or the fallbacks of healthcare (for which there has been proven to be no requirement) or B8 uses for which the site is not considered to be particularly well suited.
31. Removing the requirement for B1 use from the site could not be considered to be harmful to the plan's economic or employment strategy as there is no evidence that this site contributes towards that strategy, which appears to be to allocate deliverable and viable employment sites which would assist in regenerating the city centre or where they would attract new occupiers.
32. The Newport City Council Employment Land Review Final Report (2013) reviews each of the EM1 and EM2 allocations. The MBS site (site 39) is identified as meeting potential demand identified relating to office uses in central locations of the city. It notes that the City Centre is approximately 1.2 kilometres to the east. As discussed above and drawn out further below, the site is not considered by an Office Agency professional to meet that criteria and furthermore, as borne out by the findings of the review itself, there is likely to be little realistic demand over the plan period for uses or sites of this nature.

What evidence supports the inclusion of 1.2ha of employment land at the Monmouthshire Bank Sidings site (EM2(ix)) as part of the wider residential led redevelopment of the site? Is this allocation realistic and deliverable? Does it properly reflect the present planning position? Is it consistent with allocation H1(14) (11.3ha)?

33. Given the context outlined above at paragraphs 13 to 27, it is evident that the main rationale for the white land which now forms part of EM2 (ix) was for a commercial use to act as a buffer between residential uses and the railway line / operation land. The original allocation (H144) as set out in the UDP allocated the MBS site in its entirety for residential use.
34. The S78 inquiry explored the need for employment uses on the MBS site as part of a mixed use development, with the firm conclusion that there was no overriding need to include employment uses and that the residential allocation would be complied with in its entirety by developing the entire site for residential uses.
35. Paragraph 6.4 of the Focused Changes LDP states that: Regeneration sites identified in Policy EM2 are expected to replace (or where market conditions allow) intensify their employment generating capacity. In general, no net loss or gain of employment land is expected on these sites.
36. The B1 uses anticipated in the plan for the 1.2ha are not intended to replace any employment previously accommodated within the wider MBS site. The 20+ha site was previously used as railway sidings and a maintenance depot. These facilities have been replaced elsewhere within the network. Consequently no net loss of employment (albeit a sui generis use) has resulted from the housing development.
37. The fact is that 1.2ha need not be allocated for B1 employment uses in order to create a balanced or mixed use across the redevelopment site. It always has been allocated for residential use in its entirety and no harm to the plan's strategy would result from removing the EM2 notation from the site on the proposals map. Leaving the site as white land would allow a

variety of difference uses to come forward which would not prejudice the wider residential led redevelopment of the site.

38. **In terms of whether the allocation is realistic and deliverable**, this will only be concluded over time. There is a requirement to undertake a marketing strategy for 2 years for B1 uses, but all of the evidence thus far and the considered opinion provided by Savills Office Agency colleagues is that the site will not be attractive to B1 users. There are considered to be more suitable sites within Newport which are more realistic and viable options to secure the delivery of B1 development.
39. A better way to secure regeneration on the land, should the 2 year marketing exercise prove fruitless, would be to allow flexibility through the LDP for a wider variety of uses
40. **The allocation is also not considered to properly reflect the present planning position.** As can be seen from the extract from the S106 at Appendix 2, the planning position is not that it should be restricted to B1 uses. Instead, a marketing exercise must be undertaken after which alternative uses to B1 can be promoted. The point has been made above that the Plan Period runs until 2026, but the marketing period is only for 2 years. The allocation does not therefore reflect the inherent flexibility set out within the S106 and the policy should be revised.

To what extent do the allocations under EM2 (when added to allocations under EM1) result in an overprovision of employment land relative to identified need? Does this overprovision dilute the strategy, so jeopardising its delivery and undermining the Plan's soundness?

41. The extent of allocations under EM1, as a result of the focussed changes, is to allocate land for 118ha across the plan area. Additional land encouraged under EM2 amounts to a further 194 Ha.
42. The Employment Land Review (Roger Tym and Partners, 2013) concludes the following:
 - forecasts suggest that Newport requires a minimum of 21.5 hectares of net additional employment land specifically for B-space uses, which includes 19ha (77,000 sqm) for offices and an additional 2.2ha for industrial/warehousing uses by the end of the plan period (para 5.44)
 - assuming that the growing warehouse market is unlikely to take former industrial land the amount of land required increases to 35 ha (para 5.45)
 - a figure of 171 ha of new land is given as a maximum figure. This is not based upon an identified need, but instead is based upon a projection which the report acknowledges is an ambitious projection based upon a period of economic growth that should not be used as a model benchmark for the future. It is acknowledged to be very likely to be a maximum delivery rate for Newport in the future, and includes an allowance for optimistic one off inward investment (para 7.37)
43. The indication from the background papers therefore is that somewhere between 35 ha and 171 ha of employment land is likely to be required during the Plan Period. The combined totals for EM1 and EM2 allocations is 312 ha.
44. The EM2 provision, when added to allocations to EM1 therefore represents a significant over provision of land relative to even the most ambitious projected need.

45. Whilst we do not wish to comment on the other EM2 sites, it is our view that the inclusion of the MBS site, in a location which is not ideally suited to B1 uses, would undermine the delivery of more sustainable and attractive employment sites, which have greater regeneration potential. Consequently, EM2 (ix) should be deleted from the plan in order to avoid undermining the plan soundness in terms of the delivery of employment sites.

Conclusions

46. The extensive consideration of the MBS site at the 2010 public inquiry included detailed scrutiny of the need for employment and / or healthcare uses.
47. The site is not considered to be attractive or particularly well suited to B1 land use given its fringe location and the availability of other superior sites within the plan area for such uses. Whilst ultimately the marketing exercise that RHWS are required to undertake will reveal if there is market demand for B1 uses, the lack of flexibility afforded by the designation under EM2 is considered to be overly restrictive and could ultimately hinder the delivery of sustainable forms of development on the site, if ultimately the site does not prove attractive to B1 users.
48. In summary, the 1.2 Ha of land is not required for B1 uses in terms of any overriding need, locational advantages or in terms of the plan strategy.
49. The key to delivering a sustainable form of development on this site is flexibility in the Planning Policy context. A requirement under EM2 to deliver B1 uses is overly restrictive and unnecessary.
50. The removal of the 1.2ha from EM2 would not undermine the plan strategy in terms of the employment allocations but it would most likely help to deliver regeneration. Therefore, the Inspector is respectfully invited to delete EM2 (ix) from the proposals map and from the plan text and instead to recommend that it be included as 'white land' within the built up area, thus allowing a wide range of uses to be considered in the future.

Appendix 1 - Representations to the Revised Deposit LDP

25 July 2013



Planning Policy
Newport City Council
Civic Centre
Newport
South Wales
NP20 4UR

Paul Williams
E: piwilliams@savills.com
DL: +44 (0)29 20368906
F: +44 (0)29 20368999

12 Windsor Place
Cardiff CF10 3BY
T: +44 (0) 2920 368 920
savills.com

Dear Sir / Madam,

Representations on the Newport Revised Deposit Local Development Plan 2011-2026 – on behalf of Redrow Homes (South Wales) Ltd

Representor No. 3195

Savills are instructed by Redrow Homes (South Wales) Ltd (RHSW) to submit representations in respect of the Revised Deposit Local Development Plan for Newport (RDLDLP). These representations follow earlier comments made in respect of the original Deposit Local Development Plan in May 2012.

Whilst the recognition of the Monmouthshire Bank Sidings (MBS) site as a commitment for residential development is supported, representations are necessary due to the nature of the Local Development Plan (LDP) system and in order to suggest more appropriate references to the site, to correct matters of detail and, to ensure flexibility of the development of the site in the future.

This supporting letter encompasses the representations and objections made on behalf of RHSW in respect of the following policies / elements of the Proposals Map:

- Policy H1(14) Support;
- Objection to Policy EM2(ix) and the associated allocation on Proposals Map; and
- Objection to paragraph 6.24 – Cardiff Road, Monmouthshire Banks Sidings

The following text provides context to the representations, which are submitted on the required forms and enclosed.

Background to MBS site

The MBS site was first identified as having potential for housing purposes in the mid 1990s. It is currently allocated for 450 dwellings under Policy H1(44) of the adopted Newport Unitary Development Plan (UDP) (May 2006). The site is identified alongside the Whitehead Works (WW) for residential, B1 and B8 and Health Trust uses under Policy ED2 (vii) of the UDP.

An outline application for residential development of up to 850 dwellings on MBS was submitted to Newport City Council (NCC) in May 2007. An appeal was made against non-determination and the scheme was subsequently changed through master planning as part of the appeal to show a scheme for 575 dwellings. The appeal was subsequently allowed and planning permission granted in January 2011.

The key issues between the appellants and NCC at the appeal were (i) whether the site should be brought forward only in conjunction with the adjacent WW site as part of a comprehensively planned regeneration





site, (ii) whether a single access point was sufficient to serve the site and (iii) whether the site should be developed in entirety for residential use.

The Inspector's recommendation, endorsed by the Minister's final decision on the appeal, concluded that the site was suitable for residential development and could come forward independently of the adjacent WW site. It was also concluded that the site did not need a secondary means of vehicular access.

The conclusion that the site was previously developed land in a highly sustainable urban location was firm, and should provide NCC with the confidence that MBS should remain as an allocated site for housing development as part of the RDLDP particularly now the consent has been implemented. The continued allocation is therefore supported.

Support for Policy H1(14)

RHSW are committed to developing the site in the short term and agree that 575 units should be delivered within the plan period up to 2026.

In short, support is therefore provided for the identification of the site as a housing commitment, to be delivered within the plan period up to 2026.

Objection to Policy EM2(ix) and the associated allocation on the Proposals Map

The RDLDP refers to an area of 1.2ha of the MBS site under regeneration policy EM2(ix). For the reasons set out in full below, an objection is raised to this policy on the basis that it is unnecessary.

The land identified in EM2(ix) was also considered at the recent public inquiry but on the basis that there were no land use proposals for it. As such, it was included as "white land" within the red line of the appeal submission.

The land was left devoid of a proposal (other than to accommodate a new access to the site) in order to allow for some potential for mixed use within the MBS site in the future should the adjacent WW site come forward for mixed use development.

The need to reserve the 1.2ha for employment or health care uses was considered at the public inquiry.

Lack of Justification for Healthcare Reference

It was established at the inquiry that there was no need to retain this land for any healthcare uses and that despite the long term aspiration of NCC to see the MBS and WW sites developed for high profile health care uses, there was no evidence of any demand from the Health Board or any aspirations to develop the site other than from NCC and its partners, such as Newport Unlimited.

This matter has been debated for a long period of time, as far back as the UDP inquiry in 2003 where it was also established that there was no firm justification for reserving the sites for the healthcare uses.

There remains no justification for retaining the land for healthcare uses and as such, objections are made below to the policy and to the reference to healthcare uses.

Lack of Justification for B1/B8 References

NCC adopted a brief for the MBS / WW sites entitled "Monmouthshire Bank Sidings/Whiteheads Draft Planning Framework SPG" prior to the public inquiry. This set out preferred strategic connections and land uses across the two sites, including that the northern section of the MBS site should be reserved for employment uses (circa 11ha).



Comprehensive objections were made on behalf of Network Rail (the landowners at the time) and RHSW to the brief. Objections were made on the basis that the planning brief / SPG should carry little or no weight given the lack of justification for employment / healthcare uses within the site, that it would undermine the ability to progress regeneration across the two sites and, that there was no justification for requiring a southern access. The fundamental objection was that the MBS and WW sites did not need to be brought forward under the terms of the Planning Framework SPG.

Importantly, the Inspector agreed with a number of the objections expressed and ultimately gave very little weight to the brief in terms of the distribution of land uses within the MBS site.

Paragraph 209 of the Inspector's report into the MBS inquiry concluded that there is adequate supply of employment land in Newport, in particular noting it was established that 65 years worth of unconstrained employment land was available. The Inspector concluded at paragraph 214 that *"the need for additional employment land to that allocated in the UDP and which was considered as part of the context of the H1 and other allocations, is not made out. Therefore, I have forwarded this material consideration little weight"*.

Therefore, the Inspector came to the firm conclusion that there was no need to retain any part of the MBS site (including the land now identified under EM2(ix) of the RDLDP) for employment use.

The Inspector was principally concerned with the connections between MBS and WW rather than the distribution of land uses within the MBS site. It was fully accepted that the MBS site carried an allocation for residential use and that this should take precedent over any encouragement under the regeneration policies within the UDP.

The Planning Framework SPG has now been superseded through the grant of planning permission on the MBS site. It was found to be of limited weight in the appeal process itself in terms of land uses and has been overtaken in terms of the Inspector's conclusions on the access needs for to the site. Essentially, the adopted brief is now defunct and should have no material impact upon allocations within the RDLDP.

The site subject to EM2(ix) is dealt with as part of a Unilateral Undertaking (UU) in respect of the MBS permission. The UU identifies 1.2ha of the site for possible employment purposes, within the locations identified on the RDLDP Proposals Maps under EM2(ix). The developer is required to undertake a joint marketing strategy for a period of two years following the implementation of development on the site to secure and promote the land for employment purposes. The UU restricts the end users to B1 planning uses only. In the event that a marketing strategy does not identify a commercial developer who is willing to proceed, then the developer will discuss with NCC the potential future planning uses of the land.

Given the abundant supply of employment land within Newport, and the conclusions of the Inspector, it would be practical to plan for flexibility of the use of the EM2(ix) land to be considered within the life of the plan up to 2026. There is no justification for including the EM2(ix) land within the regeneration site policies. Instead it should either be referred to as 'white land' within the RDLDP. The site is within settlement boundaries and would be suitable for assessment against general development control policies for a variety of uses. This would allow for a range of uses including those put forward under EM2(ix), subject to the normal development control tests. This would retain ultimate flexibility for the land and, should the best efforts to comply with the terms of the UU not yield a B1 user within a reasonable timeframe, it would allow for alternative forms of development of this sustainably located site.

In short, the change sought is the deletion of reference to the MBS site from Policy EM2(ix) and removal of the same notation from the associated Proposals Map. For the avoidance of doubt, policy annotation H1(14) should be retained as proposed in the RDLDP.



Objection to paragraph 6.34 – Cardiff Road, Monmouthshire Banks Sidings

Reference is made under supporting text to EM2 (paragraph 6.24) to the northern part of the site close to Cardiff Road being identified for employment uses. This should be revised in line with any revision to EM2(ix) (discussed above) given that objections have been made to removing reference under EM2 to the site or seeking any specific uses for the site.

In short, the change sought is the deletion of paragraph 6.24 or revise in line with changes to EM2(ix).

Summary and Conclusions

As stated at the start of this letter, we support the continued allocation of the MBS site in the RDLDP for housing purposes under Policy H1(14).

We can provide the Council with confidence that RHSW are committed to the delivery of the MBS site through pursuance of the reserved matters application in relation to the extant outline permission for up to 575 dwellings. Our full support is therefore given to the continued allocation of the MBS site under H1(14).

Objections are however raised in terms of matters of detail with regard to the site in order to ensure that the plan is in accordance with the extant permission.

The identification of the northern part of the site (1.2ha) for employment and health trust uses under regeneration policy EM2(ix) is unnecessary. A great deal of debate at the recent public inquiry covered these latter points with a firm conclusion that there is no need for an allocation for health uses or employment uses within the MBS site.

I trust that the representations are helpful and I look forward to receiving confirmation that they have been registered as duly made submissions. I would be grateful if you could keep me informed with the progress of the RDLDP and its submission to the Secretary of State.

Yours faithfully,

A handwritten signature in black ink, appearing to read "P. Williams".

Paul Williams
Associate Director

- Enc. Revised Deposit Local Development Plan Representation Form (Policy H1(14))
- Revised Deposit Local Development Plan Representation Form (Policy EM2(ix))
- Revised Deposit Local Development Plan Representation Form (Paragraph 6.24)

Appendix 2 - Relevant extracts from S106 relating to the site

IN WITNESS of which this document has been executed and on the date set out above and delivered as a Deed

SCHEDULE ONE

White Land

1. The Owner and/or the Developer shall reserve an area comprising 1.2 ha of the Site for possible employment purposes the size and location of which are to be in accordance with the draft master plan attached as Appendix 3.
2. The Owner and/or the Developer shall undertake at its own cost a joint marketing strategy for a period of two (2) years following the service of the Implementation Notice to seek a commercial developer to secure and promote the employment land for employment/commercial purposes.
3. The Council will be invited to participate in the marketing strategy. This marketing strategy will seek to identify a commercial developer or end-user and will restrict the ability of this relevant party to apply for B1 planning uses only. In the event that the marketing strategy does not identify a commercial developer who is willing to proceed then the Owner and/or Developer will discuss with the Council the potential future planning uses of the land.
4. If a commercial developer is identified then the Owner and/or Developer will assist the commercial developer in securing planning permission for B1 planning uses.

Appendix 3 - Appeal Masterplans



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Monmouthshire Bank, Newport - Indicative Masterplan (Option A)

T 01285 641717 | F 01285 642348 | www.ppg-llp.co.uk | Team: MCC/EJ/SH | December 2009 | 1:2500 (A2) | dmgv_R0225_14-1 | Client: Redrow Homes (South Wales) & Network Rail





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Monmouthshire Bank, Newport - Indicative Masterplan (Option B)

T 01285 641717 | F 01285 642348 | www.ppg-llp.co.uk | Team MCC/E/J/J/A | December 2009 | 1:2500 042 | drwg - R0225_15-1 | Client: Redrow Homes (South Wales) & Network Rail



Appendix 4 – Relevant extracts from the S78 Inspectors Report

Yr Arolygiaeth Gynllunio, Adeilad y Goron,
Parc Cathays, Caerdydd CF10 3NQ
☎029 20823889 Ffacs 029 2082 5150
e-bost wales@planning-inspectorate.gsi.gov.uk



The Planning Inspectorate, Crown Buildings,
Cathays Park, Cardiff CF10 3NQ
☎029 20823889 Fax 029 2082 5150
e-mail wales@planning-inspectorate.gsi.gov.uk

Adroddiad

Ymchwiliad a gynhaliwyd ar 19-27/01/10
Ymweliad â safle a wnaed ar 26/01/10

gan/by R.M.Poppleton DipTP, DMS, MRTPI, JP

**Arolygydd a benodir gan
Weinidogion Cymru**

Report

Inquiry held on 19-27/01/10
Site visit made on 26/01/10

**An Inspector appointed by the Welsh
Ministers**

Dyddiad/Date 10/03/2010

TOWN AND COUNTRY PLANNING ACT 1990

Section 78

Newport City Council

and

Network Rail

Land at Monmouth Bank Sidings, Maesglas, Newport

Cyf ffeil/File ref: APP/G6935/A/09/2103511

address the delivery of the comprehensive development of both sites, as set out in the Brief and on its plan 2 [133], may be material, but it does not change the explicit housing allocation under policy H1(44).

Material considerations:

204. Therefore, in the light of Section 38(6) of the Act and my conclusion that the proposal accords with policy H1(44), 'the determination must be made in accordance with the plan unless material considerations indicate otherwise'. In this regard, a number of material considerations have been identified and were tested at the inquiry. These include: the employment and the white land, linkages with the WW site, a second access to the south on to Docks Way, and the sustainability credentials of the proposed development [52cf, 131cf, 157].

Employment / white Land

205. With regard to the employment land, the Brief seeks the inclusion of 4.4ha within the MB site, despite this not being a requirement of policy H1. However, in the light of the encouragement to include a mix of uses within policy ED2(vii), the Appellant intends to 'reserve' 1.2ha in the north of the site, known as the 'white land'. As noted above, this would be secured by means of the Unilateral Undertaking and a planning condition [5, 46, 140, 168, 169].

206. Although the decision to reserve this 'white land' may have been influenced by the prospective developer's concerns about the relationship between the housing development and the retained Network Rail land and the access to that land, the intention is nevertheless sensible and reasonable [59]. Given the proposed yield in terms of housing units on the remainder of the MB site compared to that expected from the allocation, I do not consider that excluding that area from the housing site, would represent an inefficient use of pdl [140a]. It is clear that the land will be used in due course, ideally as employment land as suggested, or by some other use agreed by the Council [55].

207. Moreover, that area of 'white land' would offer the potential to provide linkages and expansion into the employment land envisaged for the WW site [140a]. The submitted master-plans and the Brief's plan 2 are illustrative and have not been worked up in detail. Criticism about the lack of detailed examination of the linkages should therefore be afforded little weight at this stage of the planning process. Although there is a site level differential and there are some established trees along the boundary between the two sites, given the extent of the land involved [7], I foresee no insurmountable obstacles to providing such physical linkages in the future. I find no basis for concluding that the proposed relationship between the MB and WW sites would be strained or unnatural [140a/h].

208. Thus, I conclude that this element of the proposed layouts shown on the two illustrative master-plans would not prejudice the broad arrangement of land uses on the adjoining WW site shown on plan 2 of the Brief. Moreover, it was agreed that the employment provision on either/both sites need not include health care use [53].

209. As to whether the amount of potential employment land is adequate, this question must be considered within the context of policy H1(44) that does not require any such land to be provided on the MB site [133,140d/e]. Equally policy ED2 does not require such a provision: it only encourages it. Nevertheless, it is agreed that there is currently 65 years worth of unconstrained employment land in Newport, towards which the MB/WW sites, as heavily constrained sites, would not count. In addition, there is much more employment land that could come forward in the longer term [57].
210. In considering this matter, attention is drawn to the EDAW report [140d], that comments not only upon the amount of employment land available in the City, but also its distribution and nature. As clarified in the letter of 14 January 2010 from the report's authors, there is a more limited amount of unconstrained, prestige employment sites in the City. Although the MB/WW site is far from being unconstrained and the report concludes that it would be suitable for such Class B1 uses as part of a mixed use scheme: the site is considered to offer a sustainable, accessible location for employment uses that would reinforce the City structure and linkages to residential areas.
211. It is upon this footing that the Brief includes employment land. Notwithstanding any arguments relating to land need, it is self evident that the provision of some employment opportunities in close proximity to residential areas where employees could reside, would hold benefits in sustainability terms and social cohesion. However, I find no compelling evidence to conclude that the reduced amount of employment land on the MB site (compared to the aspiration of the Brief), would materially reduce the possibility of employment opportunities coming forward on the joint sites.
212. Neither is there compelling evidence, only assertions, that the viability of the WW site would be materially affected; nor that the proposal would prejudice the development of the WW site in this regard [118d/e, 134]. The latter is allocated as a housing site under policy H1(50) with an expected yield of 400 units. If additional land uses are proposed for that site, then that could affect the viability calculations, but that does not over-ride the provisions of the UDP in respect of the application site. Whilst the Brief seeks to 'balance' the development value across both the MB and WW sites, given the wording of policies H1 and ED2, this cannot be required by the UDP. What is important is whether the current proposal would prevent the delivery of the development of the WW site in a compatible, coherent and sustainable manner [134, 136]. In my view, having regard to the DAS and the illustrative master-plans, it would not.
213. Moreover, nothing in the UDP or the Brief suggests that the land uses on the MB and WW sites should operate in isolation to their surroundings in terms of being self sufficient. As allocated sites, identified as being in highly sustainable locations, and having regard to the inter-relationship with adjoining retail, community, education and leisure facilities and employment opportunities that the proposed development would not frustrate or prejudice, I see no basis for suggesting that the appeal site

should 'wash its own face' and provide a mix of uses within the site boundary [8, 15, 16, 39, 100, 159].

214. I conclude therefore that the need for additional employment land to that allocated in the UDP and which was considered as part of the context of the H1 and other allocations, is not made out. Therefore, I afford this material consideration little weight.

Linkages between the sites:

215. Turning to the linkages between the MB and WW sites, the illustrative master-plans and plan 2 of the Brief are relevant, but again, recognising that they are illustrative and display broad concepts. They are not intended to be a blue-print for the future development, although it is reasonable for any permission granted to refer to the master-plan in order to guide future detailed schemes [169].

216. In any case, the illustrative master-plans supported by the DAS provide a central main internal road and side road accessibility linkages across the site and into the WW site. The proposed land uses on either side of the boundary would be compatible and could be contiguous. Nothing on those master-plans would prevent further links being created as part of a detailed layout that linked into the suggested residential, open space, employment and other areas on the WW site.

217. Moreover, I consider that the DAS provides a thorough examination of the site's context and the surrounding urban form and building styles. It identifies the constraints and opportunities and the principles of the development that have been translated in an illustrative manner, into an indication of the type of development envisaged and how it would integrate into its environment. It also recognises the influences arising from and associated with the adjoining WW site and how the two sites could inter-relate. This includes the possible siting of education facilities in a location agreed with the Council, the open space and community facilities following discussions with the Council. The DAS also cross-refers to the SDS that sets out how the development would address climate change issues. I conclude that the DAS provides a sound framework and expression of design principles that would guide the future development. For these reasons, the DAS is a material consideration that influences my conclusions.

218. Under this topic, the Council argued that the delivery of development on the WW and MB sites would be more efficient and effective, if the infrastructure was dealt with comprehensively [140f]. As the WW site is in public ownership, this would be in the public interest [135, 153]. However, it should be noted that Welsh Water and the EA did not object to the submitted application, but recommended the imposition of planning conditions. Those have been incorporated into the schedule of agreed conditions that form the basis of those set out in the appendix to this report.

219. It is self-evident that there could be possible economies of scale in resolving all infrastructural issues at the same time, including site

remediation. However, it is only with regard to the consultations on the draft Brief that this matter has been raised and within the context of land uses that go well beyond the housing allocation under policy H1. Notwithstanding this, the imposition of conditions would ensure that suitable infrastructure and remediation work would be brought forward at the appropriate time and in accordance with a phasing programme¹¹⁸.

220. The same points apply to the remediation of the site prior to development and the likely changes of site levels to accommodate flood risk on the WW site [140h]. There is nothing to indicate what ground raising would be required on the WW site, if any, and how this would impact upon the MB site, or when it would occur. Even so, such matters are capable of resolution as the detailed planning of sites progresses. Nothing in the current proposal would prevent or prejudice that process. Furthermore, agreed conditions appended to this report, would also ensure that the Council could influence or manage the process. Thus these matters are not insurmountable or material considerations that need be afforded significant weight.

The second, all movements access

221. Turning to the matter of the secondary all-movements access on to the Docks Way roundabout. The distinction between whether such an access is necessary or desirable is of critical importance, because it holds implications in terms of a possible ransom strip owned by the Council. Only if it is concluded that the second access is required to enable the proposal to go ahead, should it be found necessary and then be made the subject of a Grampian type condition [62,83,155].
222. There are no highway-capacity or traffic-related reasons for objecting to the development without a second access [63]. Planning permission exists for an access off Cardiff Road capable of serving 850 dwellings [4]. I find no evidential basis in traffic or environmental terms to support the assertion that that access would not be capable of dealing with any traffic associated with the retained Network Rail land or indeed the 'white land'. Details of the junction arrangements within the overall site are likewise capable of being addressed at the detailed planning stage [140c].
223. Attention has been drawn to the note attached to the grant of planning permission in 2008 that stated '*this planning application is solely for an access off Cardiff Road and not for the wider Monmouthshire Bank Sidings (MB) site south of the application site... any development of the MB site for residential use would require a secondary access as well as the access hereby approved*'. However, the status of that note is questionable in that the permission was not conditional in these terms [140c]. It is clear that the assessment of that approved access application, which was a renewal of one granted in 2002, was based upon a TIA for 850 dwellings [36]. Therefore, notwithstanding any other issues, the use of that access for only 575 dwellings on the MB site (plus some HGV traffic from the retained

¹¹⁸ See conditions appended: Nos.6, 7, 19, 20, 25