

**APPENDIX FIVE**



5272/LAF/lem

27<sup>th</sup> November, 2013

Mr D R Thomas  
Head of Planning & Transportation  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

**FOR THE ATTENTION OF MR. STEVEN RENNIE**

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990  
LETTONS HOUSE, LETTONS WAY, DINAS POWIS – REMOVAL OF CONDITION 1 OF  
APPROVAL 2011/0503/FUL REGARDING OCCUPANCY OF THE PROPERTY**

With reference to the above, and as you know, our client's previous application (2012/01193/FUL) to remove the rural enterprise occupancy condition, which was refused in April 2013.

Despite our client's concerns that from his point of view matters were not dealt with as dispassionately as they might have been, our client has resisted the opportunity to appeal on the refusal, and has continued to liaise with the United Welsh Housing Association, in the hope that a sale might be concluded. However, this has not progressed to favourable outcome, and the United Welsh Housing Association have now withdrawn their offer for the property which was well below the anticipated level in any event (copy of e mail enclosed). I should add, that for your information, that as part of the ongoing negotiations, the parties commissioned an independent valuation of the property, albeit that the Housing Association indicated that they could not be bound by the outcome. In the event, the open market value of the property was estimated to be £595,000 which was generally in line with the £600,000 figure which was originally put forward by Watts & Morgan, and a copy of the independent valuation is attached. Further, as previously indicated, Welsh Government anticipate that the effect of a rural enterprise tie would be a discount in the region of 20-25% on the open market value (see attached copy letter)

The property has remained on the market, but no further interest has been received from qualifying parties and an addendum to the previous marketing report has been provided by Watts & Morgan. We therefore enclose a revised planning application for the removal of the condition, together with a copy of their original Report and Addendum. We confirm that the property was initially marketed at a guide price of £495,000 taking account of the rural enterprise occupancy condition, with the price being further reduced to £465,000 in November 2011 following the death of Mrs. Hayman in an endeavour to obtain a quick sale. Despite those sad circumstances, our client has been forced to remain in occupation of this large property for a further two years whilst additional efforts have been made to sell the property. Mr. Hayman obviously wishes to realise his major asset and downsize to something smaller, but due to the lack of interest with the existence of the rural enterprise tie he has been forced to remain in occupation. I should add that given his age Mr. Hayman is not in position to hold the property as an investment and offer it for rental. In the event



of the property being potentially considered for rental, Watts and Morgan placed a monthly figure on the property of £1,050 to reflect the rural enterprise condition. Given the scale and quality of the house and garden this rental level places the property well above that which could be contemplated by a person or persons eligible for consideration for affordable housing.

In the light of Mr. Hayman personal circumstances and recognising the high rental value that would be appropriate for the dwelling even taking account of the rural enterprise condition, the property was not offered for rental.

The facts remain that when Mr. Hayman originally sold the nursery in 1994 he offered the house to the company who purchased the nursery, but they were not interested in purchasing the property. Similarly when the purchasing company operating the nursery went bankrupt and the nursery was again sold in 2004, Mr. Hayman approached the new purchaser and offered them the house, but the new purchaser was not interest in the residential property. It should be noted that the production of plants at the greenhouse is now of a less sensitive nature and the current site manager resides in Barry.

It has been noted that in November 2010 the Vale of Glamorgan published an update report to an earlier local housing market assessment (2008) the updated report indicated that the open market entry level for a four bedroomed house in the Vale was £183 per week (equivalent of £793 per month), while the social rental cost for a four bedroomed house in the Vale was £72 per week (equivalent to £312 per month) with the social rent being less than 1/3<sup>rd</sup> of the market rental for a similar property. It is hardly surprising, therefore, that the update report indicated that in respect of social rented accommodation:

*“4.18... costs remained significantly below those for private rented housing, indicating a significant potential gap between the social rented and market sectors”.*

As indicated above, the scale and quality of this five bedroomed property place it well beyond the reach of an agricultural worker and/or any person eligible for affordable housing even at a reduced rental level to reflect the condition (£1,050 per month). It should be emphasised that the property is not a remote or isolated rural property, but to all intents and purposes it is part and parcel of the settlement of Dinas Powis. Indeed, the centre of the village is readily walkable from the property and as such there seems no point in keeping the property subject to a rural enterprise condition, as a qualifying individual, in this case, could probably just as easily live in any property in Dinas Powis and would probably have the option of purchasing/occupying or renting a less expensive property than Lettons House.

Under all the circumstances, it is conclusively demonstrated that there is no market demand from compliant occupiers, including those eligible for affordable housing, and under the circumstances the rural enterprise tie should be removed. As the application is a re-submission within 12 months of a refusal, there is no application fee to pay, and I trust that you can now register the application and look forward to hearing from you in due course.

Yours faithfully

**LAURENCE FORSE**

Encs: application forms and plan

Valuation Report

Marketing Report and Addendum



**2013/01207/FUL** Received on 6 December 2013

Mr. Peter Hayman, Lettons House, Lettons Way, Dinas Powys, Vale of Glamorgan., CF64 4BY

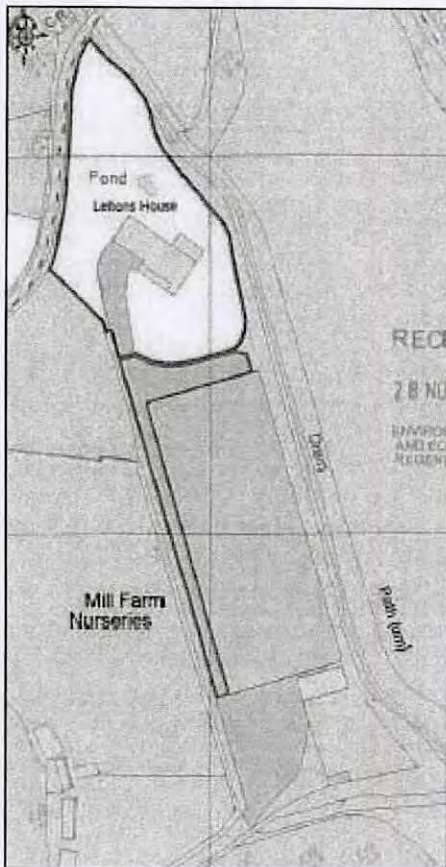
Mr. Laurence Forse, Harmers Limited, 39, Lambourne Crescent, Cardiff Business Park, Llanishen, Cardiff., CF14 5GG

**Lettons House, Lettons Way, Dinas Powys**

Removal of condition 1 of approval 2011/00503/FUL - regarding occupancy of the property

**SITE AND CONTEXT**

The site is Lettons House, which is a five bedroom house with attached double garage to the side. It was built in the early 1980's and is rendered with a concrete tiled roof. The dwelling is located within a spacious plot, immediately to the north of Mill Farm Nurseries and its associated large glasshouses. The dwelling is accessed via a lane that connects with the end of Lettons Way, which is a residential street within Dinas Powys. The site is within the Cwrt-yr-Ala Basin Special Landscape Area.





## DESCRIPTION OF DEVELOPMENT

The application for the dwelling (ref: 1979/00067/OUT) was approved in outline following an appeal, with reserved matters application following in 1982 (1982/01750/RES). The Appeal Inspector who allowed the appeal for the outline application attached a condition restricting occupancy to "a person solely or mainly employed, or last employed, in the locality in agriculture ..... or in forestry (including any dependants of such a person residing with him) or a widow or a widower of such a person". The dwelling was proposed as accommodation for the nursery manager, with horticulture being considered as within the definition of agriculture.

By way of background, application ref: 2011/00503/FUL proposed to vary the occupancy condition. The revised condition as approved was as advised in Technical Advice Note 6, which includes within its criteria those people that work on a rural enterprise and also those eligible for affordable housing. This broadens the range that would qualify as eligible to occupy the property and also increases the potential for a sale of the dwelling with this revised condition.

Application 2012/01193/FUL then sought to remove this condition completely to allow the house to be sold on the open market with no occupancy restriction. The owner wished to downsize, and from the information submitted there was little interest due to the restrictive occupancy condition. The agent also stated that there was no interest from affordable housing bodies or Registered Social Landlords, such as the Housing Associations. However, during the course of the application it became apparent that there was interest from a Housing Association to use the property for affordable housing, if an agreement could be reached over the sale price. As there was a clear potential for the house to be occupied by those eligible for affordable housing, the application was refused and the condition remained.

This latest application is also for the removal of the occupancy condition as attached with application 2011/00503/FUL. An update of the marketing report, initially submitted with application 2012/01193/FUL has also been submitted, indicating no significant interest for the dwelling at the sale price indicated (£450,000) in accordance with the occupancy condition.

## PLANNING HISTORY

2012/01193/FUL: Lettons House, Lettons Way, Dinas Powys - Removal of Condition 1 of Approval reference 2011/0503/FUL relating to an occupancy condition for the dwelling - Refused 12/04/2013 for the following reason:

In light of the Policies HOUS5 - Agricultural or Forestry Dwellings; and HOUS6 - Agricultural Occupancy Conditions of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and the guidance contained in Technical Advice Note (Wales) 6 'Planning for Sustainable Rural Communities', in Planning Policy Wales (Edition 5 - 2012) and Welsh Office Circular 35/95 'Use of Conditions in Planning Permissions', the applicant has failed to demonstrate that there is no longer any need for the dwelling to accommodate an agricultural or forestry worker or that there is not a realistic potential that the dwelling could be used to accommodate those eligible for affordable housing.



As such Condition No. 1 of planning permissions 2011/0503/FUL, which limits occupation of the dwelling to that of a person employed or last employed in a rural enterprise or for the provision of accommodation for those eligible for affordable housing remains justified and has not outlived its usefulness. Accordingly, the proposal to remove this condition would be contrary to the above defined national and local policies as well as Policies ENV1 - Development in the Countryside and HOUS3 - Dwellings in the Countryside of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which seek to prevent the erection of dwellings in the countryside without an agricultural or forestry justification.

2011/00503/FUL: Lettons House, Lettons Way, Dinas Powys. Variation of agricultural occupancy condition imposed on appl 79/0067 on appeal (ref: P72/569), in respect of the erection of a two storey house for a Nursery Manager. Approved 27 July 2011 (with new occupancy condition attached)

1989/01170/FUL: Letton House, Lettons Way, Dinas Powys. Single storey dining extension & canopy. Approved 27 October 1989.

1982/01750/RES: Letton House, Lettons Way, Dinas Powys. Manager's house. Approved 11 November 1982.

### CONSULTATIONS

**Dinas Powys Community Council** – Objection: If the condition is removed the owner of the horticultural business on the land behind Lettons House could justifiably submit a planning application for another agricultural property to be built.

**Local Ward Members** – No comments have been received to date.

### REPRESENTATIONS

The neighbouring properties were consulted on 19 December 2013. A site notice was also displayed on the 6 January 2014. There has been 13 letters of support received for the application to remove the occupancy condition. Please see Appendix A for example copies of three of these letters/emails.

### REPORT

#### Planning Policies

The Development Plan for the area comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which was formally adopted by the Council on 18 April 2005, and within which the following policies are of relevance:

ENV1 - DEVELOPMENT IN THE COUNTRYSIDE

ENV27 - DESIGN OF NEW DEVELOPMENTS



HOUS3 - DWELLINGS IN THE COUNTRYSIDE

HOUS5 - AGRICULTURAL AND FORESTRY DWELLINGS

HOUS6 - AGRICULTURAL OCCUPANCY CONDITIONS

HOUS12- AFFORDABLE HOUSING- AFFORDABLE HOUSING

HOUS13 - EXCEPTION SITES FOR AFFORDABLE HOUSING IN THE RURAL VALE

Planning Policy Wales (Edition 5, 2012) advises that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as national planning policy, in the determination of individual applications. It is for the decision-maker to determine whether policies in the adopted Development Plan are out of date or have been superseded by other material considerations and this should be done in light of the presumption in favour of sustainable development.

In this case, the relevant material considerations are considered to be as follows:

National Planning Policy:

Planning Policy Wales (Edition 5, 2012)

Technical Advice Notes:

The relevant paragraphs from TAN 6 are as follows:

4.13.1 Where the need to provide accommodation to enable rural enterprise workers to live at or near their place of work has been accepted as justifying isolated residential development in the open countryside, it will be necessary to ensure that the dwellings are kept available for meeting this need. For this purpose planning permission should be made subject to an occupancy condition as set out below.

The occupancy of the dwelling shall be restricted to those:

- a. Solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those.
- b. Who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either (a) and (b).
- c. Widows, widowers or civil partners of the above and any resident dependants.

4.13.2 It should not be necessary to tie occupation of the dwelling to workers engaged in one specific rural enterprise even though the needs of that enterprise justified the provision of the dwelling. An occupancy condition will, however, ensure that the dwelling is kept available to meet the needs of other rural enterprises in the locality if it is no longer needed by the original business, thus avoiding a proliferation of dwellings in the open countryside.



4.13.3 When granting permission for new rural enterprise dwellings, planning authorities should be aware of the scope, where appropriate, for imposing an occupancy condition not only on the dwelling itself but also on any existing dwellings on the enterprise which are under the control of the applicant, that do not have occupancy conditions and need at the time of the application to be used in connection with the enterprise. This should help to protect the countryside against the risk of pressure for new houses. In appropriate circumstances, authorities may use planning obligations, for example, to tie a rural enterprise dwelling to adjacent buildings or land, to prevent them being sold separately without further application to the authority.

4.13.4 The broadening of the traditional agricultural occupancy condition to embrace a wider range of rural enterprises significantly increases the number of eligible occupiers for rural enterprise dwellings. Where an appropriate rural enterprise worker cannot be found to occupy the rural enterprise dwelling, eligibility should be extended to persons who would be eligible for consideration for affordable housing under the local authority's housing policies.

4.13.5 Where planning applications are received to lift existing agricultural occupancy conditions or where enforcement action is being taken for non compliance with the condition, the planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition set out in paragraph 4.13.1. This will often be justified to ensure that the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing.

#### Supplementary Planning Guidance

Supplementary Planning Guidance 'Affordable Housing':

4.3 'Since existing property is already outside the reach of those households in need, in order for new low cost market housing to be affordable, the Council considers that there should normally be a discount of at least 30% on the normal market value. This reflects the Council's experience with smaller discount rates that have been insufficient to enable properties to be afforded by persons nominated by the Council.'

#### Background Evidence

Affordable Housing Delivery Statement (2009) – This document identified a need for affordable housing in the Vale of Glamorgan, both in terms of an existing need and as part of an ongoing requirement in the future.

Affordable Housing Background Paper (2013) – This document states that there is a requirement of 915 affordable units per year to reduce the affordable housing need in the Vale. The document also identifies a need for affordable housing in the 'Penarth Submarket', which includes Dinas Powys.



## Issues

The condition that was attached to permission 2011/00503/FUL was worded as follows:

The occupancy of the dwelling shall be restricted to:

- a A person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants;

or, if it can be demonstrated that there are no such eligible occupiers:

- b A person or persons who would be eligible for consideration for affordable housing under the Local Authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.

Reason:

A dwelling in this rural location would not be permitted unless justified in terms of being necessary for the equestrian enterprise, and to ensure the development accords with Policies ENV1, HOUS3 and HOUS5 of the Unitary Development Plan.

Members will recall that application 2012/01193/FUL was also for removal of this condition, so that the dwelling could be sold for its open market value, without the need for any future occupants to be eligible under the criteria of this occupancy condition.

As stated with application 2012/01193/FUL and as identified in the above text extracts, both nationally and within the Vale of Glamorgan there is an established need for affordable housing. This has been highlighted in Technical Advice Note 6 (which included the advice that the broader condition should be used to include those eligible for affordable housing) and also the Council's adopted Supplementary Planning Guidance. As evidence of the need for affordable housing in the locality of the site, the following is a breakdown of the households in housing need who are registered on the 'Homes4U' Scheme who want to be housed in Dinas Powys as of January 2014:

- 1 bedroom home = 399 households (96 of which are over pensionable age)
- 2 bed room home = 85 households
- 3 bedroom home = 45 households
- 4 bedroom home = 16 households
- 5 bed room home = 1 household

There is clearly evidence that points to a need for affordable housing both for Dinas Powys and throughout the Vale, which could be addressed in part by the use of this broader restrictive occupancy condition. Its retention is therefore in keeping with policy guidance for the provision and retention of affordable housing.



The condition imposed under application 2011/00503/FUL varied the original condition, which referred solely to occupants being employed within agriculture or forestry, so that those eligible for affordable housing or rural enterprise workers would comply with the occupancy condition. The dwelling has been marketed since this revised condition was imposed but the property has not been sold and it is claimed that the lack of interest is due to the restrictions of the occupancy condition. The application is supported by information submitted to illustrate the lack of interest in the property with the restrictive occupancy condition in place. This includes an addendum 'Marketing Report', prepared by local agents Watts & Morgan, to add to the report originally submitted with application 2012/01193/FUL.

Mr Robin L Jones of 'Watts and Morgan LLP' concluded the submitted report by stating that the house had been on the market for two and a half years, though whilst there was interest in the property "it is apparent that the occupancy restriction and difficulty obtaining finance are detrimental factors". Mr Jones also stated that "a proposed scheme to use the property as affordable housing did not find favour with the Welsh Government and was withdrawn due to lack of funding."

The original Marketing Report stated that Watts & Morgan were instructed to put the dwelling for sale in March 2011 with a guide price of £495,000. Following the approval of application 2011/00503/FUL the sales particulars were amended to indicate the broader restrictive occupancy condition which now applied. In attempts to achieve a quicker sale the price of the dwelling was reduced to £450,000. The dwelling was advertised at this price on websites and in the press.

The original Marketing Report lists all the general enquiries made to Watts and Morgan, from May 2011 until October 2012, plus the six viewings that were arranged. The addendum to the marketing report contained seven more enquiries relating to the property from February to August 2013. Some of the notes indicate that with several of the enquiries the restrictive occupancy condition resulted in no further interest. Also, there has been one person that viewed the house and wrote to the Planning Office at the Council to enquire whether he was eligible under the occupancy condition. The informal response was that in the Officer's opinion, based on the information provided, the person did not qualify for occupation of this dwelling.

It is apparent from the submitted information that most of the interest in the property has been from people who do not qualify for occupancy of the dwelling under the existing occupancy condition. However, whilst the marketing report may indicate that there is little interest in the property for those who would be eligible as workers within a rural enterprise, it does note the interest from United Welsh Housing Association. According to the marketing report they viewed the property on the 7 February 2013 with an offer of £420,000 to purchase the property being made in September 2013.



It is understood that the housing association were forced to withdraw as there was no agreement on the sale price for the property between the Housing Association and the vendor. From information provided to us, the Housing Association and the vendor agreed to an independent valuation of the property. A 20% discount to the valuation was then applied though the sale price remained significantly over the £420,000 the Housing Association offered. Whilst the initial plan for use of the property for those with learning disabilities was withdrawn, there remained an interest from the Housing Association in acquiring the property.

It is clear from the interest shown from the Housing Association and the comments of the Council's Strategy and Supporting People Manager that there remains an interest in the property from an affordable housing provider.

Thus the potential for the house to be acquired for affordable housing remains, but issues over the correct pricing of the property have resulted in this not occurring.

If the sale price was lower and at a level more accurately reflecting the occupancy restrictions, then potentially there could have been an agreement to its purchase by a qualifying occupier/organisation.

Considering the above situation having regards to the interest from the Housing Association, the crux of the issue is whether the dwelling has been appropriately priced, considering its restrictive occupancy condition. The agent has stated that the pricing of the property was determined by effectively reducing the sale price by 25% from what would be the sale price if it were sold on the open market. However, the premise behind the restrictive occupancy condition is to allow for the property to be available at an affordable price, for rural enterprise workers or persons eligible for affordable housing provision. It is acknowledged that the house is large, though at 25% under the market price the figure of £450,000 would not be considered as 'affordable' by most who would be eligible to occupy the dwelling under the condition. As such, there is a concern that the sale price as marketed remains too high to be considered affordable. Therefore it was always unlikely that someone who did qualify under the restrictive occupancy condition could realistically afford this property and it is considered that this is a flaw in the marketing of the property. The Local Planning Authority would contend that the market price for a property with such a restrictive condition should be considered on its merits and even allowing for a 20-25% reduction, the marketing has not considered the guidance of a minimum of 30% reduction, and thus has not been marketed at a realistic price.

It is understood that the owner wishes to sell the property and realise the worth of his asset, though it should also be considered that this house was only built on the condition that it would have restrictive occupancy, which would always have had a significant impact on its value. There is a demand for affordable housing within the Dinas Powys area, which could in some way be addressed by the use of this property as a form of affordable housing. As evident with the recent interest from the Housing Association and the comments of the local authority housing office, there remains the potential for the dwelling to provide affordable accommodation.



This potential has been hampered by the high sale price attached to the property, despite the extant occupancy condition. As such, there is no justification to permit the removal of the condition, applied with the recent 2011 application, as there remains the potential for future occupancy in accordance with the relevant condition.

### CONCLUSION

The decision to recommend refusal of planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

It is considered that there is a potential for the continued use of the dwelling in accordance with the criteria of the occupancy condition, including in relation to affordable housing. Furthermore, it is considered that the strategy of valuation of the property does not suitably reflect the occupancy restrictions of the property and would not result in the dwelling being 'affordable' for those who would be eligible under the occupancy condition. As such, there remains insufficient evidence and justification to remove the occupancy condition, which was attached under application 2011/00503/FUL.

### RECOMMENDATION

#### REFUSE (W.R.)

1. Having regard to Policies HOUS5 - Agricultural or Forestry Dwellings; and HOUS6 - Agricultural Occupancy Conditions of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and the guidance contained in Technical Advice Note (Wales) 6 'Planning for Sustainable Rural Communities', in Planning Policy Wales (Edition 5 – 2012) and Welsh Office Circular 35/95 'Use of Conditions in Planning Permissions', the applicant has failed to demonstrate that there is no longer any need for the dwelling to accommodate an agricultural or forestry worker or that there is not a realistic potential that the dwelling could be used to accommodate those eligible for affordable housing. As such Condition No. 1 of planning permissions 2011/0503/FUL, which limits occupation of the dwelling to that of a person employed or last employed in a rural enterprise or for the provision of accommodation for those eligible for affordable housing remains justified and has not outlived its usefulness. Accordingly, the proposal to remove this condition would be contrary to the above defined national and local policies as well as Policies ENV1 - Development in the Countryside and HOUS3 - Dwellings in the Countryside of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which seek to prevent the erection of dwellings in the countryside without an agricultural or forestry justification.



**THE VALE OF GLAMORGAN COUNCIL**

Town and Country Planning Act 1990  
Planning and Compulsory Purchase Act 2004  
The Town and Country Planning (Development Management Procedure) (Wales)  
Order 2012  
Town and Country Planning (General Development Procedure) Order 1995

**REFUSAL OF PLANNING PERMISSION**

Agent:  
Mr. Laurence Forse,  
Harmers Limited,  
39, Lambourne Crescent,  
Cardiff Business Park,  
Llanishen,  
Cardiff.  
CF14 5GG

Applicant:  
Mr. Peter Hayman,  
Lettons House,  
Lettons Way,  
Dinas Powys,  
Vale of Glamorgan.  
CF64 4BY

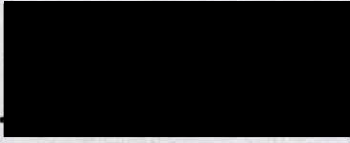
**Removal of condition 1 of approval 2011/00503/FUL - regarding occupancy of the property at Lettons House, Lettons Way, Dinas Powys**

In accordance with the application and plans registered on 6 December 2013 the Council in pursuance of its powers under the above mentioned Act and Order hereby **REFUSES TO PERMIT** the proposed development for the following reason(s):

1. Having regard to Policies HOUS5 - Agricultural or Forestry Dwellings; and HOUS6 - Agricultural Occupancy Conditions of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and the guidance contained in Technical Advice Note (Wales) 6 'Planning for Sustainable Rural Communities', in Planning Policy Wales (Edition 5 - 2012) and Welsh Office Circular 35/95 'Use of Conditions in Planning Permissions', the applicant has failed to demonstrate that there is no longer any need for the dwelling to accommodate an agricultural or forestry worker or that there is not a realistic potential that the dwelling could be used to accommodate those eligible for affordable housing. As such Condition No. 1 of planning permissions 2011/0503/FUL, which limits occupation of the dwelling to that of a person employed or last employed in a rural enterprise or for the provision of accommodation for those eligible for affordable housing remains justified and has not outlived its usefulness. Accordingly, the proposal to remove this condition would be contrary to the above defined national and local policies as well as Policies ENV1 - Development in the Countryside and HOUS3 - Dwellings in the Countryside of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which seek to prevent the erection of dwellings in the countryside without an agricultural or forestry justification.



Dated: 14 February 2014



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Director of Development Services

**IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES  
ATTACHED TO THIS FORM.**



## **APPENDIX SIX**



- include clear development management policies to guide the determination of applications, including guidance on design, access, density, off-street parking and open space provision for particular areas as appropriate;
- specify mechanisms to be used to monitor the take up of housing land;
- include policies for affordable housing in areas where need has been identified, including any areas where exception sites will be considered; and
- include policies to indicate where developer contributions will be expected toward infrastructure, community facilities and affordable housing.

### 9.3 Development management and housing

7-554

**9.3.1** New housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and retail development and with community facilities.

**9.3.2** Sensitive *infilling* of small gaps within small groups of houses, or minor extensions to groups, in particular for affordable housing to meet local need, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. Significant incremental expansion of housing in rural settlements and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where travel needs are unlikely to be well served by public transport. Residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use.

**9.3.3** Insensitive *infilling*, or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character or amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing.

**9.3.4** In determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area's character and amenity. Increases in density help to conserve land resources, and good design can overcome adverse effects, but where high densities are proposed the amenity of the scheme and surrounding property should be carefully considered. High quality design and landscaping standards are particularly important to enable high density developments to fit into existing residential areas. Details of the procedure to be followed in dealing with housing applications identified as *significant residential development* under the notification direction are given in paragraph 3.12.2.

**9.3.5** Where development plan policies make clear that an element of affordable housing, or other developer contributions, are required on specific sites, this will be a material consideration in determining relevant applications. Applicants for planning permission should therefore demonstrate and justify how they have arrived at a particular mix of housing, having regard to development plan policies. If, having had regard to all material considerations, the local planning authority considers that the proposal for a site does not contribute sufficiently towards the objective of creating mixed communities, then the authority will need to negotiate a revision of the mix of housing or may refuse the application.

**9.3.6** New house building and other new development in the open countryside, away from established settlements, should be strictly controlled. The fact that a



**9.3.9** Where the need to provide accommodation to enable a rural enterprise worker to live at or near their place of work has been accepted as justifying isolated residential development in the open countryside, it will be necessary to ensure that the dwellings are kept available for this need. For this reason planning permission should be granted subject to an occupancy condition. Rural enterprise dwellings should also be classified as affordable housing as defined in TAN 2, Planning and Affordable Housing. This will ensure that the dwelling remains available to meet local affordable housing need should the original justification have ceased to exist.

**9.3.10** Applications for rural enterprise dwellings must only be permitted where the rural enterprise dwelling appraisal provides conclusive evidence of the need for the dwelling and an occupancy condition is applied.

**9.3.11** *One Planet Development* is development that through its low impact either enhances or does not significantly diminish environmental quality. One Planet Developments should initially achieve an ecological footprint of 2.4 global hectares per person or less in terms of consumption and demonstrate clear potential to move towards 1.88 global hectares over time (the global average availability of resources in 2003). They should also be zero carbon in both construction and use.<sup>1, 2</sup>

**9.3.12** One Planet Developments may take a number of forms. They can either be single homes, co-operative communities or larger settlements. They may be located within or adjacent to existing settlements or be situated in the open countryside. *Land based One Planet Developments located in the open countryside* should provide for the minimum needs of the inhabitants in terms of income, food, energy and waste assimilation over a period of no more than 5 years from the commencement of work on the site. This should be evidenced by a management plan produced by a competent person(s). The management plan should set out the objectives of the proposal, the timetable for development of the site and the timescale for review. It should be used as the basis of a legal agreement relating to the occupation of the site, should planning consent be granted.

### Figure 9.1 Housing

*Guide to the application of national planning policy statements in LDPs*

#### Housing requirement

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A range of evidence, including the Welsh Government's latest household projections and the results of the Local Housing Market Assessment, should inform the quantification of the housing requirement (both market and affordable housing) for each local planning authority. It should be underpinned by collaborative working with neighbouring authorities and other stakeholders (9.2.1-9.2.2, 9.1.4 and 9.2.15).

#### Locational considerations

7-556

The national planning policy statements which should inform the settlement strategy in the LDP and the locational policies arising from it can be found in the following paragraphs:

<sup>1</sup> Technical Advice Note 6, Planning for Sustainable Rural Communities, Welsh Government, 2010  
[www.gov.wales/topics/planning/policy/tans/tan6/?lang=en](http://www.gov.wales/topics/planning/policy/tans/tan6/?lang=en)

<sup>2</sup> Practice Guidance – One Planet Development, Welsh Government, 2012  
[www.gov.wales/topics/planning/policy/guidanceandleafllets/oneplanet/?lang=en](http://www.gov.wales/topics/planning/policy/guidanceandleafllets/oneplanet/?lang=en)





## **APPENDIX SEVEN**



Residential Occupancy Conditions and Rural Enterprise Dwellings

**5.85** If the development of a site for housing is an acceptable use of land there will seldom be any good reason on land-use planning grounds to restrict the occupancy of those houses to a particular type of person. However, there are exceptions, for example, in the case of rural enterprise dwellings. 7-239.136

**5.86** It may be difficult for local planning authorities to prevent the removal of a residential occupancy condition if the alternative is that the property remains empty. Local planning authorities therefore need to ensure that the property subject to the condition is sufficiently justified in the first instance, for example, that the need for a rural enterprise worker's dwelling in the area is demonstrated as part of the application.

**5.87** The imposition of a residential occupancy condition can draw an artificial and unwarranted distinction between new houses or new conversions and existing houses that are not subject to such restrictions on occupancy or sale. It may deter house builders from providing homes for which there is a local demand and mortgage providers from providing finance. It may also impose hardship on owners who subsequently need to sell. Extreme care should therefore be taken when applying such conditions to a grant of planning permission to ensure that an individual's human rights are not harmed.

**5.88** One of the few circumstances in which new, isolated residential development may be acceptable in the open countryside is where it would enable rural enterprise workers to live at, or close to their place of work. Traditionally such conditions were used to ensure that new agricultural workers' dwellings remained as such. In light of the strict controls over development in the open countryside it will be necessary, where a new dwelling is justified, to ensure that it remains available to meet this need.

**5.89** An appropriately worded condition will ensure that the dwelling is kept available to meet the needs of other rural enterprises in the locality if it is no longer needed by the original business, thus avoiding a proliferation of dwellings in the open countryside. Care should be taken to ensure that the condition does not have the effect of preventing occupation by the dependants of the rural enterprise worker referred to in the condition. Condition 98 of the appendix ensures that the accommodation can also be used to provide affordable housing when there are no eligible dependants or demand from those employed in local rural enterprises.

**5.90** Where a rural enterprise occupancy condition has been imposed it will not be appropriate to remove it on a subsequent application unless it is shown that the existing need for such dwellings for rural enterprise workers in the locality no longer warrants reserving the house for that purpose. If planning permission for a dwelling would in all probability be granted without such a condition, this would be a material consideration.

**5.91** Further advice can be found in Technical Advice Note 6, 'Planning for Sustainable Rural Communities' (TAN 6)<sup>1</sup>.

Staff Accommodation

**5.92** Conditions tying the occupation of dwellings to that of separate buildings (e.g. requiring a house to be occupied only by a person employed by a nearby garage) should be avoided. However, exceptionally, such conditions may be ap- 7-239.137

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<sup>1</sup> Link to TAN 6: Planning for Sustainable Rural Communities:  
<http://wales.gov.uk/topics/planning/policy/tans/tan6>



**Occupancy (staff accommodation)**

- 97 The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in the business occupying the plot edged red on the attached plan, or a widow, widower or civil partner of such a person, or any resident dependents. 7-239.204

**Occupancy (rural enterprise)**

- 98 The occupancy of the dwelling shall be restricted to: 7-239.205
- a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants;
- or if it can be demonstrated that there are no such eligible occupiers,
- b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.

**One Planet Development**

- 99 The use of the site shall be carried out in accordance with the management objectives set out in [the management plan dated x]. 7-239.206

100 No later than [specify date] each year, commencing in the second year after development commences, the occupiers of the site shall submit to the local planning authority a written report giving details of the activities carried out during the previous twelve months, setting out performance against the management objectives included within the Management Plan. In the event that the report identifies that any objective has not been met a supplementary report setting out corrective or mitigating measures shall be submitted to the local planning authority no later than [specify date] of that year. Those measures shall be implemented in accordance with the supplementary report.

**Parking**

101 No development shall take place until details of the construction of the car park shown on drawing number [x], including levels, drainage and details of the finished surface have been submitted to and approved in writing by the local planning authority. Development shall be completed in accordance with the approved details prior to the occupation of the [buildings / dwellings / development] and the car parking spaces shall remain available for their designated use in perpetuity. 7-239.207

102 No [dwelling] shall be occupied until space has been laid out within the site [in accordance with drawing no [x] for [number] cars to be parked [and for the loading and unloading of [number] vehicles [and for vehicles to turn so that they may enter and leave the site in forward gear]] and that space shall thereafter be kept available for the [parking of vehicles / such purposes] in perpetuity.

103 The development shall not be occupied until facilities for the secure storage of cycles have been provided in accordance with details to be submitted to and approved in writing by the local planning authority and they shall be retained in perpetuity.



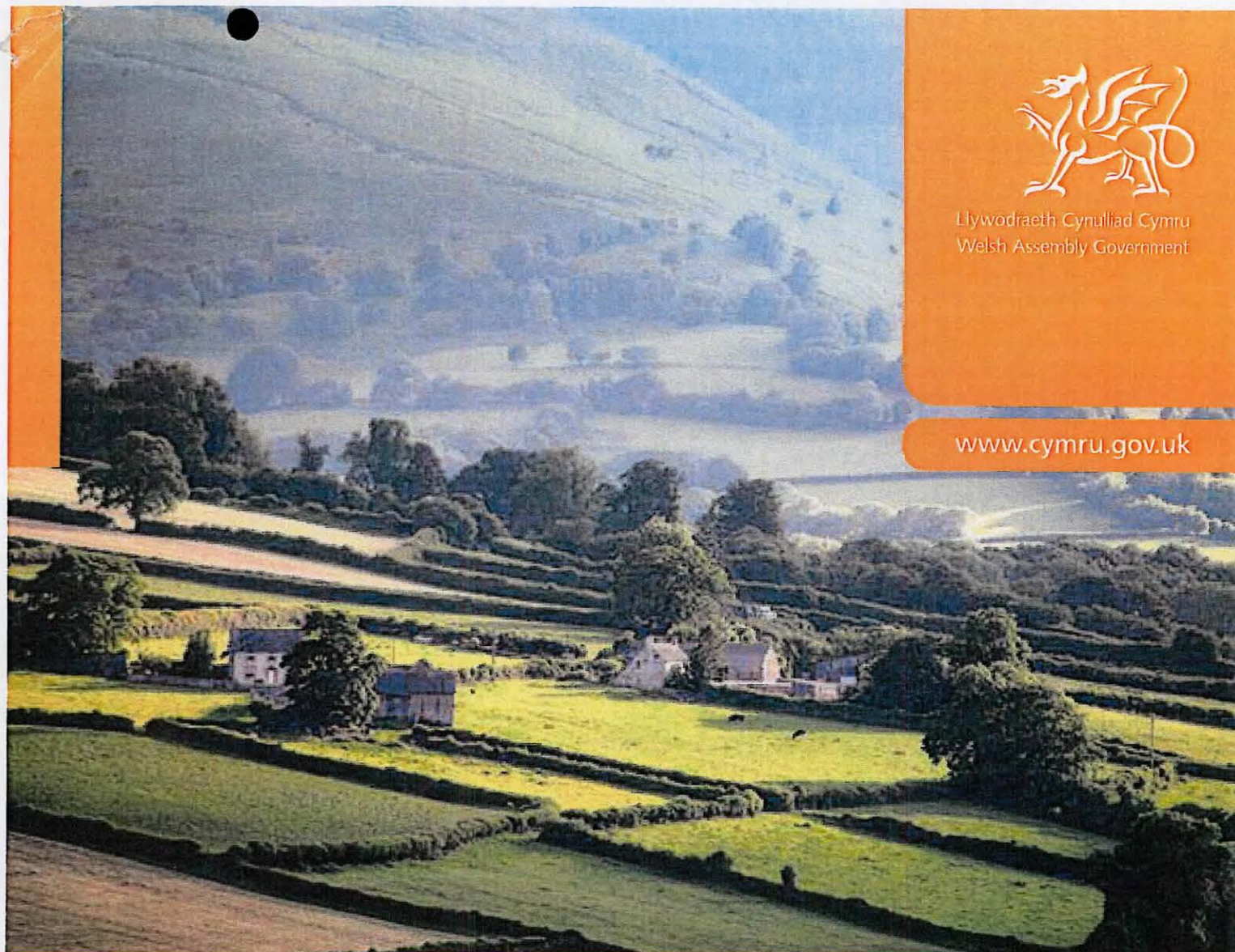
## **APPENDIX EIGHT**





Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

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# Technical Advice Note 6



Planning for Sustainable  
Rural Communities

July 2010



exception sites. There should be a high degree of certainty that the identified site will be brought forward for development as affordable housing.

4.2.4 To meet the need for affordable housing, as defined in TAN2, in smaller rural communities planning authorities should adopt a flexible approach to delivery. Whilst some schemes will be delivered by Registered Social Landlords, a broader range of delivery options will be necessary to meet community and individual needs and preferences. Possible methods of delivery include community land trusts, private landlords and unsubsidised affordable housing where the affordable housing is provided by a developer, or directly by the intended occupier. In the case of unsubsidised affordable housing the initial and resale value of the affordable home is capped at an affordable level linked either to a fixed multiple of local incomes, or discount from market value. Whilst the price of the affordable home covers development costs, prices are well below market values. For this model to work planning authorities must ensure that properties constructed are affordable to the local community as a whole, not only the initial occupier, and requests to allow disposal on the open market (except where the mortgagee is in possession) resisted.

### 4.3 Rural enterprise dwellings

4.3.1 One of the few circumstances in which new isolated residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to, their place of work<sup>22</sup>. Whether this is essential in any particular case will depend on the needs of the rural enterprise concerned and not on the personal preference or circumstances of any of the individuals involved. Applications for planning permission for new rural enterprise dwellings should be carefully assessed by the planning authority to ensure that a departure from the usual policy of restricting development in the open countryside can be fully justified by reference to robust supporting evidence.

*Rural enterprise dwellings* include:

- A new dwelling on an established rural enterprise (including farms) where there is a functional need for a full time worker and the business case demonstrates that the employment is likely to remain financially sustainable. (See paragraph 4.4.1).
- A second dwelling on an established farm which is financially sustainable, to facilitate the handover of the management of the farm business to a younger farmer. (See paragraphs 4.5.1 - 4.5.3).
- A second dwelling on an established farm which is financially sustainable, where there is a functional need for a further 0.5 or more of a full time worker and at least 50% of a Grade 2 Standard Worker salary, as defined by the latest version of the Agricultural Wages Order, is obtained from the farm business. (See paragraphs 4.5.1 - 4.5.3).
- A new dwelling on a new rural enterprise where there is a functional need for a full time worker and the criteria in paragraphs 4.5.3 a-e are fully evidenced. (See paragraphs 4.6.1 - 4.6.2).





4.3.2 For the purpose of this technical advice note qualifying rural enterprises comprise land related businesses including agriculture, forestry and other activities that obtain their primary inputs from the site, such as the processing of agricultural, forestry and mineral products together with land management activities and support services (including agricultural contracting), tourism and leisure enterprises. Development plans may include a broader definition of qualifying rural enterprises where this can be justified by specific local evidence.

## 4.4 New dwellings on established rural enterprises

4.4.1 New permanent dwellings should only be allowed to support established rural enterprises providing:

- a. there is a clearly established *existing* functional need; (See paragraph 4.8.1).
- b. the need relates to a *full-time* worker, and does not relate to a part-time requirement; (See paragraph 4.7.1) (See paragraphs 4.5.1 - 4.5.3 for policy exemptions).
- c. the enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so; (See paragraphs 4.10.1 - 4.10.3).
- d. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned; (See paragraphs 4.11.1 - 4.11.2), and
- e. other normal planning requirements, for example siting and access, are satisfied. (See paragraphs 4.12.1 - 4.12.2).

## 4.5 Second dwellings on established farms

4.5.1 The Assembly Government wishes to encourage younger people to manage farm businesses and promote the diversification of established farms. To support this policy objective it may be appropriate to allow a second dwelling on established farms that are financially sustainable where the criteria set out in paragraph 4.4.1 cannot be fully satisfied. The two exceptions to the policy are:

- Where there are secure and legally binding arrangements in place to demonstrate that management of the farm business has been transferred to a person younger than the person currently responsible for management, or, that transfer of management is only conditional upon grant of planning permission for the dwelling. The younger person should demonstrate majority control over the farm business and be the decision maker for the farm business; or,
- There is an existing functional need for an additional 0.5 or more of a full time worker and that person obtains at least 50% of a Grade 2 Standard Worker salary, (as defined by the latest version of the Agricultural Wages Order), from the farm business.



## 4.13 Occupancy conditions

4.13.1 Where the need to provide accommodation to enable rural enterprise workers to live at or near their place of work has been accepted as justifying isolated residential development in the open countryside, it will be necessary to ensure that the dwellings are kept available for meeting this need<sup>28</sup>. For this purpose planning permission should be made subject to an occupancy condition as set out below:

The occupancy of the dwelling shall be restricted to those:

- a. solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;
- b. who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either (a) and (b);
- c. widows, widowers or civil partners of the above and any resident dependants.

4.13.2 It should not be necessary to tie occupation of the dwelling to workers engaged in one specific rural enterprise even though the needs of that enterprise justified the provision of the dwelling. An occupancy condition will, however, ensure that the dwelling is kept available to meet the needs of other rural enterprises in the locality if it is no longer needed by the original business, thus avoiding a proliferation of dwellings in the open countryside.

4.13.3 When granting permission for new rural enterprise dwellings, planning authorities should be aware of the scope, where appropriate, for imposing an occupancy condition not only on the dwelling itself but also on any existing dwellings on the enterprise which are under the control of the applicant, that do not have occupancy conditions and need at the time of the application to be used in connection with the enterprise. This should help to protect the countryside against the risk of pressure for new houses. In appropriate circumstances, authorities may use planning obligations, for example, to tie a rural enterprise dwelling to adjacent buildings or land, to prevent them being sold separately without further application to the authority<sup>29</sup>. (see also 4.5.3)

4.13.4 The broadening of the traditional agricultural occupancy condition to embrace a wider range of rural enterprises significantly increases the number of eligible occupiers for rural enterprise dwellings. Where an appropriate rural enterprise worker cannot be found to occupy the rural enterprise dwelling, eligibility should be extended to persons who would be eligible for consideration for affordable housing under the local authority's housing policies.

4.13.5 Where planning applications are received to lift existing agricultural occupancy conditions or where enforcement action is being taken for non compliance with the condition, the planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition set out in paragraph 4.13.1. This will often be justified to ensure that





## **APPENDIX NINE**





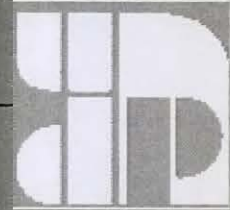
# QUESTION 22g

QUESTION

22g



The Vale of Glamorgan



***Adopted  
Unitary  
Development  
Plan***

**1996 - 2011**

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