

For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

Within the Vale of Glamorgan, the Unitary Development Plan (1996-2011) forms the Development Plan. Accordingly applications should be considered against this planning framework in the first instance, unless material considerations indicate otherwise.

As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

### The LDP Strategy

Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

Planning Policy Wales in clear that:

*“Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).”*

I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet *"local needs within rural areas"* (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

*"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."*

Furthermore:

*"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."*

In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

*"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."*

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

### The Application's Conformity to PPW's Objectives

Within the accompanying Planning Statement, the applicant contends that the Unitary Development Plan is out-of-date and therefore in accordance with TAN 1, the Local Authority will be unable to demonstrate a 5 year housing land supply from January 2016. Accordingly the applicant considers that the development benefits from the presumption in favour of sustainable development and therefore should be approved.

However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

In any event we note that a shortfall of land supply does not lead to unacceptable development being made acceptable. We note that similar conclusions were presented in a number of recent Appeal decisions within Wales, including:

#### ***Land at Rockfield Road, Monmouth***

In this case the land supply stood at 4.4 years (2012) and common ground between the parties that it would fall to 3.6 years in the 2013 study. The site was also located outside of the settlement boundary. Whilst the Inspector considered there were no technical or landscape constraints, the stage of the LDP (awaiting the Inspectors Report), it was considered premature in relation to the imminent (at that time) LDP which would deal with matters related to the scale of growth at Monmouth.

#### ***Land at Red Barn Farm, Abergavenny***

The land supply stood at 4.4 years, however, the Inspector considered that the impact of the development on the nearby listed building and landscape would outweigh the shortfall and dismissed the appeal.

#### ***Began Road, Cardiff***

Despite a significant shortfall in housing land (and recent appeal decisions granting permission) the Inspector considered that the adverse impacts on landscape, highways safety and ecology outweighed the housing shortfall and dismissed the appeal on the small site.

In the case of this application, it is considered that the development would not accord with the key principles and policy objectives of sustainable development as defined by PPW. To demonstrate this harm, the scheme is assessed against relevant sustainability objectives provided in Section 4.4 of PPW below:

- ***Promote resource-efficient and climate change resilient settlement patterns*** - the proposed development will increase the size of St Nicholas by around 65%. Given the lack of services and facilities within the village there is a real possibility that the proposed development will increase dependency on the car, promoting unsustainable travel patterns. As there is no identified affordable housing need within the East Vale area most, if not all of this development should be re-distributed to the areas where the need is greatest, which is also where there are the greatest number of services and facilities. This should result in a more sustainable pattern of development. The prematurity of this scheme does not allow for this consideration in the most appropriate forum;
- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
- ***Support the need to tackle the causes of climate change by moving towards a low carbon economy*** – the proposed development is adjacent to a village with limited services and facilities. Residents of

the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- **Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- **Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- **Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- **Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- **Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

### **The Impact on Community Infrastructure**

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a \$106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

### **The Impact on the St Nicholas Conservation Area**

Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely,



*Sheren Allen*

Shane Allen

TREHILL HOUSE

ST NICHOLAS

CFS 65J

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

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- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

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- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

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The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

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The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet "*local needs within rural areas*" (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

*"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."*

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*"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."*

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- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

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the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- ***Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity*** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- ***Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs*** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- ***Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare*** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- ***Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity*** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- ***Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides*** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

#### **The Impact on Community Infrastructure**

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a S106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

#### **The Impact on the St Nicholas Conservation Area**

Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

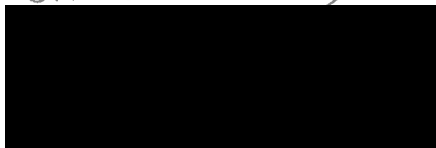
## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely,

Shane Allen.



David Allen

Trehill House

St. Nicholas

CF5 6SJ

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

Within the Vale of Glamorgan, the Unitary Development Plan (1996-2011) forms the Development Plan. Accordingly applications should be considered against this planning framework in the first instance, unless material considerations indicate otherwise.

As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

### The LDP Strategy

Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

Planning Policy Wales is clear that:

***“Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).”***

I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet "*local needs within rural areas*" (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

***"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."***

Furthermore:

***"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."***

In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

***"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."***

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

### **The Application's Conformity to PPW's Objectives**

Within the accompanying Planning Statement, the applicant contends that the Unitary Development Plan is out-of-date and therefore in accordance with TAN 1, the Local Authority will be unable to demonstrate a 5 year housing land supply from January 2016. Accordingly the applicant considers that the development benefits from the presumption in favour of sustainable development and therefore should be approved.

However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

In any event we note that a shortfall of land supply does not lead to unacceptable development being made acceptable. We note that similar conclusions were presented in a number of recent Appeal decisions within Wales, including:

#### ***Land at Rockfield Road, Monmouth***

In this case the land supply stood at 4.4 years (2012) and common ground between the parties that it would fall to 3.6 years in the 2013 study. The site was also located outside of the settlement boundary. Whilst the Inspector considered there were no technical or landscape constraints, the stage of the LDP (awaiting the Inspectors Report), it was considered premature in relation to the imminent (at that time) LDP which would deal with matters related to the scale of growth at Monmouth.

#### ***Land at Red Barn Farm, Abergavenny***

The land supply stood at 4.4 years, however, the Inspector considered that the impact of the development on the nearby listed building and landscape would outweigh the shortfall and dismissed the appeal.

#### ***Began Road, Cardiff***

Despite a significant shortfall in housing land (and recent appeal decisions granting permission) the Inspector considered that the adverse impacts on landscape, highways safety and ecology outweighed the housing shortfall and dismissed the appeal on the small site.

In the case of this application, it is considered that the development would not accord with the key principles and policy objectives of sustainable development as defined by PPW. To demonstrate this harm, the scheme is assessed against relevant sustainability objectives provided in Section 4.4 of PPW below:

- ***Promote resource-efficient and climate change resilient settlement patterns*** - the proposed development will increase the size of St Nicholas by around 65%. Given the lack of services and facilities within the village there is a real possibility that the proposed development will increase dependency on the car, promoting unsustainable travel patterns. As there is no identified affordable housing need within the East Vale area most, if not all of this development should be re-distributed to the areas where the need is greatest, which is also where there are the greatest number of services and facilities. This should result in a more sustainable pattern of development. The prematurity of this scheme does not allow for this consideration in the most appropriate forum;
- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
- ***Support the need to tackle the causes of climate change by moving towards a low carbon economy*** – the proposed development is adjacent to a village with limited services and facilities. Residents of

the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- **Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- **Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- **Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- **Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- **Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

### The Impact on Community Infrastructure

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a \$106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

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Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely,



*DAVID ALLEN*

Haydn Howell

GATES AND HOUSE  
TREMILL  
ST NICHOLAS,  
VALE OF GLAM

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

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As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

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Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

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I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet "*local needs within rural areas*" (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

***"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."***

Furthermore:

***"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."***

In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

***"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."***

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

### The Application's Conformity to PPW's Objectives

Within the accompanying Planning Statement, the applicant contends that the Unitary Development Plan is out-of-date and therefore in accordance with TAN 1, the Local Authority will be unable to demonstrate a 5 year housing land supply from January 2016. Accordingly the applicant considers that the development benefits from the presumption in favour of sustainable development and therefore should be approved.

However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

In any event we note that a shortfall of land supply does not lead to unacceptable development being made acceptable. We note that similar conclusions were presented in a number of recent Appeal decisions within Wales, including:

#### ***Land at Rockfield Road, Monmouth***

In this case the land supply stood at 4.4 years (2012) and common ground between the parties that it would fall to 3.6 years in the 2013 study. The site was also located outside of the settlement boundary. Whilst the Inspector considered there were no technical or landscape constraints, the stage of the LDP (awaiting the Inspectors Report), it was considered premature in relation to the imminent (at that time) LDP which would deal with matters related to the scale of growth at Monmouth.

#### ***Land at Red Barn Farm, Abergavenny***

The land supply stood at 4.4 years, however, the Inspector considered that the impact of the development on the nearby listed building and landscape would outweigh the shortfall and dismissed the appeal.

#### ***Began Road, Cardiff***

Despite a significant shortfall in housing land (and recent appeal decisions granting permission) the Inspector considered that the adverse impacts on landscape, highways safety and ecology outweighed the housing shortfall and dismissed the appeal on the small site.

In the case of this application, it is considered that the development would not accord with the key principles and policy objectives of sustainable development as defined by PPW. To demonstrate this harm, the scheme is assessed against relevant sustainability objectives provided in Section 4.4 of PPW below:

- ***Promote resource-efficient and climate change resilient settlement patterns*** - the proposed development will increase the size of St Nicholas by around 65%. Given the lack of services and facilities within the village there is a real possibility that the proposed development will increase dependency on the car, promoting unsustainable travel patterns. As there is no identified affordable housing need within the East Vale area most, if not all of this development should be re-distributed to the areas where the need is greatest, which is also where there are the greatest number of services and facilities. This should result in a more sustainable pattern of development. The prematurity of this scheme does not allow for this consideration in the most appropriate forum;
- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
- ***Support the need to tackle the causes of climate change by moving towards a low carbon economy*** – the proposed development is adjacent to a village with limited services and facilities. Residents of

the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- **Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- **Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- **Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- **Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- **Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

### The Impact on Community Infrastructure

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a S106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

### The Impact on the St Nicholas Conservation Area

Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

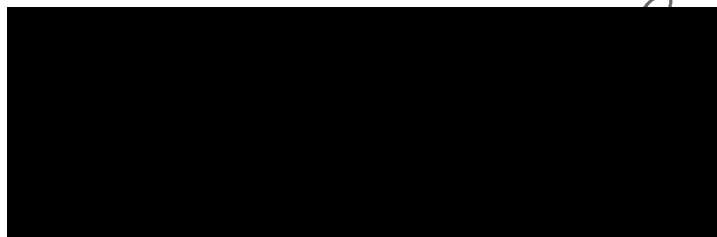
There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely,



HAYSON HOWELL

Mair Howell

39  
Gates End Hse,  
St. Nicholas  
CF5 6SJ.

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

Ref: 2015/00249/FUL - Land to East of St Nicholas

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

#### The Decision Making Framework

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

Within the Vale of Glamorgan, the Unitary Development Plan (1996-2011) forms the Development Plan. Accordingly applications should be considered against this planning framework in the first instance, unless material considerations indicate otherwise.

As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

### The LDP Strategy

Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

Planning Policy Wales in clear that:

*“Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).”*

I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet "*local needs within rural areas*" (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

***"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."***

Furthermore:

***"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."***

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***"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."***

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

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Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access ***"would be most appropriate directly off the A48"*** and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

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- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

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Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

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However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

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- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
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the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- **Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
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It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

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St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a \$106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

#### **The Impact on the St Nicholas Conservation Area**

Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

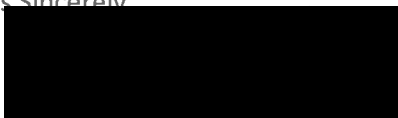
There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely



Howell (Mrs)

A. Hoskins  
A. Hoskins.  
The Old House  
St Nicholas  
CF5 6SJ

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

Within the Vale of Glamorgan, the Unitary Development Plan (1996-2011) forms the Development Plan. Accordingly applications should be considered against this planning framework in the first instance, unless material considerations indicate otherwise.

As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

### The LDP Strategy

Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

Planning Policy Wales in clear that:

*“Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).”*

I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet "*local needs within rural areas*" (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

*"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."*

Furthermore:

*"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."*

In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

*"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."*

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

### **The Application's Conformity to PPW's Objectives**

Within the accompanying Planning Statement, the applicant contends that the Unitary Development Plan is out-of-date and therefore in accordance with TAN 1, the Local Authority will be unable to demonstrate a 5 year housing land supply from January 2016. Accordingly the applicant considers that the development benefits from the presumption in favour of sustainable development and therefore should be approved.

However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

In any event we note that a shortfall of land supply does not lead to unacceptable development being made acceptable. We note that similar conclusions were presented in a number of recent Appeal decisions within Wales, including:

#### ***Land at Rockfield Road, Monmouth***

In this case the land supply stood at 4.4 years (2012) and common ground between the parties that it would fall to 3.6 years in the 2013 study. The site was also located outside of the settlement boundary. Whilst the Inspector considered there were no technical or landscape constraints, the stage of the LDP (awaiting the Inspectors Report), it was considered premature in relation to the imminent (at that time) LDP which would deal with matters related to the scale of growth at Monmouth.

#### ***Land at Red Barn Farm, Abergavenny***

The land supply stood at 4.4 years, however, the Inspector considered that the impact of the development on the nearby listed building and landscape would outweigh the shortfall and dismissed the appeal.

#### ***Began Road, Cardiff***

Despite a significant shortfall in housing land (and recent appeal decisions granting permission) the Inspector considered that the adverse impacts on landscape, highways safety and ecology outweighed the housing shortfall and dismissed the appeal on the small site.

In the case of this application, it is considered that the development would not accord with the key principles and policy objectives of sustainable development as defined by PPW. To demonstrate this harm, the scheme is assessed against relevant sustainability objectives provided in Section 4.4 of PPW below:

- ***Promote resource-efficient and climate change resilient settlement patterns*** - the proposed development will increase the size of St Nicholas by around 65%. Given the lack of services and facilities within the village there is a real possibility that the proposed development will increase dependency on the car, promoting unsustainable travel patterns. As there is no identified affordable housing need within the East Vale area most, if not all of this development should be re-distributed to the areas where the need is greatest, which is also where there are the greatest number of services and facilities. This should result in a more sustainable pattern of development. The prematurity of this scheme does not allow for this consideration in the most appropriate forum;
- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
- ***Support the need to tackle the causes of climate change by moving towards a low carbon economy*** – the proposed development is adjacent to a village with limited services and facilities. Residents of

the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- ***Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity*** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- ***Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs*** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- ***Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare*** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- ***Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity*** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- ***Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides*** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

### **The Impact on Community Infrastructure**

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a S106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

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provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

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Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

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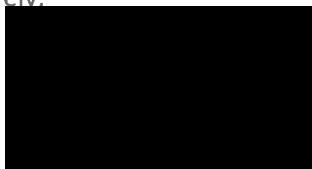
There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
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- The application does not accord with emerging Planning Policy as:
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- The proposed development does not accord with the key principles and policy objectives provided by PPW.
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Yours Sincerely,



G Hoskins  
A Hoskins

C Wharton  
+  
G Caveill

Trehill.....  
Cowbridge Rd.....  
St Nicholas.....

.....

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
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- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
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Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

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- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

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I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

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The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

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Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet *"local needs within rural areas"* (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

*"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."*

Furthermore:

*"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."*

In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

*"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."*

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

### **The Application's Conformity to PPW's Objectives**

Within the accompanying Planning Statement, the applicant contends that the Unitary Development Plan is out-of-date and therefore in accordance with TAN 1, the Local Authority will be unable to demonstrate a 5 year housing land supply from January 2016. Accordingly the applicant considers that the development benefits from the presumption in favour of sustainable development and therefore should be approved.

However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

In any event we note that a shortfall of land supply does not lead to unacceptable development being made acceptable. We note that similar conclusions were presented in a number of recent Appeal decisions within Wales, including:

#### ***Land at Rockfield Road, Monmouth***

In this case the land supply stood at 4.4 years (2012) and common ground between the parties that it would fall to 3.6 years in the 2013 study. The site was also located outside of the settlement boundary. Whilst the Inspector considered there were no technical or landscape constraints, the stage of the LDP (awaiting the Inspectors Report), it was considered premature in relation to the imminent (at that time) LDP which would deal with matters related to the scale of growth at Monmouth.

#### ***Land at Red Barn Farm, Abergavenny***

The land supply stood at 4.4 years, however, the Inspector considered that the impact of the development on the nearby listed building and landscape would outweigh the shortfall and dismissed the appeal.

#### ***Began Road, Cardiff***

Despite a significant shortfall in housing land (and recent appeal decisions granting permission) the Inspector considered that the adverse impacts on landscape, highways safety and ecology outweighed the housing shortfall and dismissed the appeal on the small site.

In the case of this application, it is considered that the development would not accord with the key principles and policy objectives of sustainable development as defined by PPW. To demonstrate this harm, the scheme is assessed against relevant sustainability objectives provided in Section 4.4 of PPW below:

- ***Promote resource-efficient and climate change resilient settlement patterns*** - the proposed development will increase the size of St Nicholas by around 65%. Given the lack of services and facilities within the village there is a real possibility that the proposed development will increase dependency on the car, promoting unsustainable travel patterns. As there is no identified affordable housing need within the East Vale area most, if not all of this development should be re-distributed to the areas where the need is greatest, which is also where there are the greatest number of services and facilities. This should result in a more sustainable pattern of development. The prematurity of this scheme does not allow for this consideration in the most appropriate forum;
- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
- ***Support the need to tackle the causes of climate change by moving towards a low carbon economy*** – the proposed development is adjacent to a village with limited services and facilities. Residents of

the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- ***Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity*** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- ***Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs*** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- ***Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare*** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- ***Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity*** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- ***Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides*** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

#### **The Impact on Community Infrastructure**

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a S106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

#### **The Impact on the St Nicholas Conservation Area**

Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely



Mr. C. WHARTON

G.D. Powell

Mr. G. CAVEILL

K. + M. GLOVER,  
HAFOD, COWBRIDGE ROAD,  
ST. NICHOLAS  
CF5 6SH

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

Within the Vale of Glamorgan, the Unitary Development Plan (1996-2011) forms the Development Plan. Accordingly applications should be considered against this planning framework in the first instance, unless material considerations indicate otherwise.

As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

### The LDP Strategy

Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

Planning Policy Wales in clear that:

*“Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).”*

I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet "*local needs within rural areas*" (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

*"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."*

Furthermore:

*"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."*

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Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

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Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

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- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

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Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

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It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

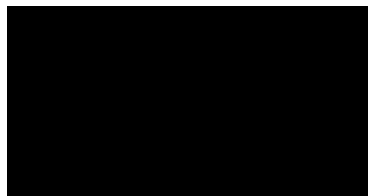
There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely,



~~Julian Davies~~

Orchard Cottage  
St Nicholas

CF5 6SG

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

Within the Vale of Glamorgan, the Unitary Development Plan (1996-2011) forms the Development Plan. Accordingly applications should be considered against this planning framework in the first instance, unless material considerations indicate otherwise.

As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

### The LDP Strategy

Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

Planning Policy Wales is clear that:

*“Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).”*

I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet "*local needs within rural areas*" (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

*"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."*

Furthermore:

*"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."*

In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

*"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."*

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

### The Application's Conformity to PPW's Objectives

Within the accompanying Planning Statement, the applicant contends that the Unitary Development Plan is out-of-date and therefore in accordance with TAN 1, the Local Authority will be unable to demonstrate a 5 year housing land supply from January 2016. Accordingly the applicant considers that the development benefits from the presumption in favour of sustainable development and therefore should be approved.

However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

In any event we note that a shortfall of land supply does not lead to unacceptable development being made acceptable. We note that similar conclusions were presented in a number of recent Appeal decisions within Wales, including:

#### ***Land at Rockfield Road, Monmouth***

In this case the land supply stood at 4.4 years (2012) and common ground between the parties that it would fall to 3.6 years in the 2013 study. The site was also located outside of the settlement boundary. Whilst the Inspector considered there were no technical or landscape constraints, the stage of the LDP (awaiting the Inspectors Report), it was considered premature in relation to the imminent (at that time) LDP which would deal with matters related to the scale of growth at Monmouth.

#### ***Land at Red Barn Farm, Abergavenny***

The land supply stood at 4.4 years, however, the Inspector considered that the impact of the development on the nearby listed building and landscape would outweigh the shortfall and dismissed the appeal.

#### ***Began Road, Cardiff***

Despite a significant shortfall in housing land (and recent appeal decisions granting permission) the Inspector considered that the adverse impacts on landscape, highways safety and ecology outweighed the housing shortfall and dismissed the appeal on the small site.

In the case of this application, it is considered that the development would not accord with the key principles and policy objectives of sustainable development as defined by PPW. To demonstrate this harm, the scheme is assessed against relevant sustainability objectives provided in Section 4.4 of PPW below:

- ***Promote resource-efficient and climate change resilient settlement patterns*** - the proposed development will increase the size of St Nicholas by around 65%. Given the lack of services and facilities within the village there is a real possibility that the proposed development will increase dependency on the car, promoting unsustainable travel patterns. As there is no identified affordable housing need within the East Vale area most, if not all of this development should be re-distributed to the areas where the need is greatest, which is also where there are the greatest number of services and facilities. This should result in a more sustainable pattern of development. The prematurity of this scheme does not allow for this consideration in the most appropriate forum;
- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
- ***Support the need to tackle the causes of climate change by moving towards a low carbon economy*** – the proposed development is adjacent to a village with limited services and facilities. Residents of

the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- ***Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity*** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- ***Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs*** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- ***Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare*** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- ***Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity*** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- ***Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides*** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

#### **The Impact on Community Infrastructure**

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a \$106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

#### **The Impact on the St Nicholas Conservation Area**

Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

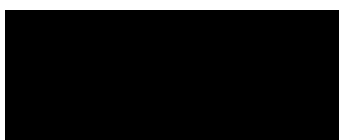
There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
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- The application does not accord with emerging Planning Policy as:
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- It could have unacceptable impacts on community infrastructure.
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Yours Sincerely,



~~Ellis~~ Davies  
Quinn

Orchard Cottage  
St Nicholas

CF5 6SG

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
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Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**



For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

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- The St. Nicholas Conservation Area (partly); and
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I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

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The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

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Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

***"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."***

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***"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."***

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### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.

The LDP will ensure that these **built environmental assets are protected, conserved and where appropriate enhanced.**

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations **that support the needs of the local community.**

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet ***"local needs within rural areas"*** (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

***"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."***

Furthermore:

***"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."***

In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

***"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."***

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

J. JONES  
KINFARNS  
ST. Nicholas  
CF5 6SH

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**

For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### **Existing Development Plan**

Within the Vale of Glamorgan, the Unitary Development Plan (1996-2011) forms the Development Plan. Accordingly applications should be considered against this planning framework in the first instance, unless material considerations indicate otherwise.

As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

### **The LDP Strategy**

Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

Planning Policy Wales in clear that:

***“Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).”***

I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that **new development is of a scale appropriate to its location**, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be **located in sustainable locations that minimise the need to travel**.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet "*local needs within rural areas*" (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

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In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

***"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."***

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

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The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.



### **The Application's Conformity to PPW's Objectives**

Within the accompanying Planning Statement, the applicant contends that the Unitary Development Plan is out-of-date and therefore in accordance with TAN 1, the Local Authority will be unable to demonstrate a 5 year housing land supply from January 2016. Accordingly the applicant considers that the development benefits from the presumption in favour of sustainable development and therefore should be approved.

However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

In any event we note that a shortfall of land supply does not lead to unacceptable development being made acceptable. We note that similar conclusions were presented in a number of recent Appeal decisions within Wales, including:

#### ***Land at Rockfield Road, Monmouth***

In this case the land supply stood at 4.4 years (2012) and common ground between the parties that it would fall to 3.6 years in the 2013 study. The site was also located outside of the settlement boundary. Whilst the Inspector considered there were no technical or landscape constraints, the stage of the LDP (awaiting the Inspectors Report), it was considered premature in relation to the imminent (at that time) LDP which would deal with matters related to the scale of growth at Monmouth.

#### ***Land at Red Barn Farm, Abergavenny***

The land supply stood at 4.4 years, however, the Inspector considered that the impact of the development on the nearby listed building and landscape would outweigh the shortfall and dismissed the appeal.

#### ***Began Road, Cardiff***

Despite a significant shortfall in housing land (and recent appeal decisions granting permission) the Inspector considered that the adverse impacts on landscape, highways safety and ecology outweighed the housing shortfall and dismissed the appeal on the small site.

In the case of this application, it is considered that the development would not accord with the key principles and policy objectives of sustainable development as defined by PPW. To demonstrate this harm, the scheme is assessed against relevant sustainability objectives provided in Section 4.4 of PPW below:

- ***Promote resource-efficient and climate change resilient settlement patterns*** - the proposed development will increase the size of St Nicholas by around 65%. Given the lack of services and facilities within the village there is a real possibility that the proposed development will increase dependency on the car, promoting unsustainable travel patterns. As there is no identified affordable housing need within the East Vale area most, if not all of this development should be re-distributed to the areas where the need is greatest, which is also where there are the greatest number of services and facilities. This should result in a more sustainable pattern of development. The prematurity of this scheme does not allow for this consideration in the most appropriate forum;
- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
- ***Support the need to tackle the causes of climate change by moving towards a low carbon economy*** – the proposed development is adjacent to a village with limited services and facilities. Residents of

the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- ***Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity*** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- ***Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs*** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- ***Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare*** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- ***Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity*** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- ***Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides*** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

#### **The Impact on Community Infrastructure**

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a \$106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

#### **The Impact on the St Nicholas Conservation Area**

Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

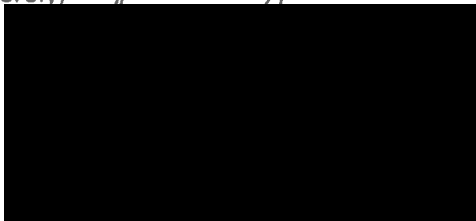
There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely,



S. M. JONES

Bryan J Davies

Orchard Cottage  
St Nicholas  
CF5 6SG

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
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Each issue is considered in turn below.

#### **The Decision Making Framework**

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**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**

For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

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In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

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The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet *"local needs within rural areas"* (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

***"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."***

Furthermore:

***"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."***

In considering meeting demand for housing as close to where that need arises the Welsh Government state that:

***"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."***

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

### **The emerging Allocation**

Notwithstanding our fundamental concerns regarding the LDP strategy. As indicated above, the site and an adjacent land parcel is allocated within the Deposit Vale of Glamorgan LDP to provide 100 dwellings and 0.41ha of Public Open Space on 4.4ha of land (Policy MG2 refers). The provision of open space was intended to remedy deficiencies in the existing public open space offer in St Nicholas, particularly children's play space, although it is also noted that there is no outdoor sports provision within the Village.

Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

The submitted scheme identifies an access through 'Emmavalle'. This parcel of land was not identified as forming part of the wider allocation and therefore its use to form an access must be considered to be contrary to the emerging planning policy framework provided by the Deposit LDP. No justification has been provided by the applicant through either the pre-application process (please refer to Page 3 of the Officer's pre-application response) or through the submitted application material as to why an alternative access strategy has been proposed.

No information has been provided within the application material that quantifies the amount of public open space provided.

Whilst the Planning Statement outlines that "**the remainder of the allocated land will be able provide the shortfall in the LDP allocation**" (para. 8.1 refers), this has not been evidenced in any of the application material. Absent a comprehensive master plan for the site, it cannot be categorically proven that the policy aspirations for the site will be delivered in their entirety. This conclusion has been formed for the following reason:

- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

Whilst no information has been provided about the quantity of public open space provided, it is noted that the Landscape Plan includes a number of swathes of land, including to the east and west of the proposed access and to the rear of the site, which can only be considered as being amenity green space and therefore will not assist in meeting existing shortfalls.

It would appear that once these areas of green space are discounted, the provision of a single LEAP and LAP would only yield approximately 0.05ha, against a policy requirement of 0.48ha. Even including the areas of land surrounding the LEAP and LAP, a total of around 0.27ha is provided, which is somewhat short of the policy aspiration.

Given that a significant aspect of the justification for the allocation of the wider site for housing was to render the deficiency of children's play space in St. Nicholas, there is a need to ensure that this scheme delivers the right quantum and form of public open space. For the reasons outlined above, and absent any information provided by the applicant, my Client believes that this is not the case. Only the delivery of a comprehensive scheme on the site, which properly articulates the policy aims of the emerging Plan can provide this certainty.

Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.



### **The Application's Conformity to PPW's Objectives**

Within the accompanying Planning Statement, the applicant contends that the Unitary Development Plan is out-of-date and therefore in accordance with TAN 1, the Local Authority will be unable to demonstrate a 5 year housing land supply from January 2016. Accordingly the applicant considers that the development benefits from the presumption in favour of sustainable development and therefore should be approved.

However, it is clear that the presumption in favour of the development would only apply if the proposals accorded with national planning policies and the key principles and policy objectives of sustainable development.

In any event we note that a shortfall of land supply does not lead to unacceptable development being made acceptable. We note that similar conclusions were presented in a number of recent Appeal decisions within Wales, including:

#### ***Land at Rockfield Road, Monmouth***

In this case the land supply stood at 4.4 years (2012) and common ground between the parties that it would fall to 3.6 years in the 2013 study. The site was also located outside of the settlement boundary. Whilst the Inspector considered there were no technical or landscape constraints, the stage of the LDP (awaiting the Inspectors Report), it was considered premature in relation to the imminent (at that time) LDP which would deal with matters related to the scale of growth at Monmouth.

#### ***Land at Red Barn Farm, Abergavenny***

The land supply stood at 4.4 years, however, the Inspector considered that the impact of the development on the nearby listed building and landscape would outweigh the shortfall and dismissed the appeal.

#### ***Began Road, Cardiff***

Despite a significant shortfall in housing land (and recent appeal decisions granting permission) the Inspector considered that the adverse impacts on landscape, highways safety and ecology outweighed the housing shortfall and dismissed the appeal on the small site.

In the case of this application, it is considered that the development would not accord with the key principles and policy objectives of sustainable development as defined by PPW. To demonstrate this harm, the scheme is assessed against relevant sustainability objectives provided in Section 4.4 of PPW below:

- ***Promote resource-efficient and climate change resilient settlement patterns*** - the proposed development will increase the size of St Nicholas by around 65%. Given the lack of services and facilities within the village there is a real possibility that the proposed development will increase dependency on the car, promoting unsustainable travel patterns. As there is no identified affordable housing need within the East Vale area most, if not all of this development should be re-distributed to the areas where the need is greatest, which is also where there are the greatest number of services and facilities. This should result in a more sustainable pattern of development. The prematurity of this scheme does not allow for this consideration in the most appropriate forum;
- ***Locate developments so as to minimise the demand for travel, especially by private car*** – the lack of services and facilities within St Nicholas will mean that residents of the proposed development will have to access services and facilities in other areas. The majority of these trips will be made by the private car;
- ***Support the need to tackle the causes of climate change by moving towards a low carbon economy*** – the proposed development is adjacent to a village with limited services and facilities. Residents of

the proposed development will therefore have to access services and facilities within higher tier settlements. The majority of these trips will be made by the private car and therefore the development will not assist in tackling the causes of climate change.

- ***Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity*** – the proposed development will have a significant harmful effect on the St Nicholas Conservation Area and locally important and listed buildings. A robust assessment of this harm has not been undertaken by the applicant.
- ***Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs*** – there is currently no affordable housing need within the Eastern Vale area. The majority of need is within Barry, Penarth and the Coastal areas, where there exists a greater number of services and facilities.
- ***Promote access to employment, shopping, education, health, community, leisure and sport facilities and open and green space, maximising opportunities for community development and social welfare*** – the application does not provide access to any employment, education, shopping, community, leisure or sports facilities. Whilst it does provide an element of public open space, there is no certainty provided by the application as to whether the public open space provided will meet the deficit of specific types of public open spaces in St Nicholas, which was a major consideration in the site's allocation in the Deposit LDP.
- ***Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity*** – the proposed development does not provide any improvements to accessing services and facilities, both for the existing and proposed resident population. Conversely, it could create an unsustainable pattern of development and a greater dependency on the private car. Moreover, whilst the proposed junction may work in isolation, it would clearly reduce the safety of my Clients existing access from his property and of other properties in the surrounding environs.
- ***Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides*** – as indicated above, the proposed development would lead to a greater dependency on the private car.

It is clear from the assessment above that the proposed development would not constitute sustainable development and therefore the presumption in favour of sustainable development that applies as a result of the time lapsed nature of the Adopted UDP and the housing land supply situation from 2016, does not apply.

#### **The Impact on Community Infrastructure**

St Nicholas Church of Wales Primary School has 126 places within the school and currently 125 pupils on roll. Whilst there is reference to a S106 contribution being provided to mitigate the impact of the proposed development on existing education facilities, the development will clearly lead to the need to expand and extend the existing school, or to alter the school's admissions policy. No information has been provided by the applicant which demonstrates whether this is achievable, or whether capacity will need to be created in an alternative location, which could, given the frequency of the bus service and the need to safeguard children of a primary age, lead to a dependency on the car for pupils to attend school.

#### **The Impact on the St Nicholas Conservation Area**

Part of the application site is located within the boundary of the St Nicholas Conservation Area. The Conservation Area was first designated in 1970 in recognition of the Villages special architectural and historic interest.

Whilst the application site is not identified as being of key importance to the Conservation Area within the St Nicholas Conservation Area Appraisal and Management Plan (2009), there still remains the statutory duty provided by Planning (Listed Buildings and Conservation) Areas Act (1990) for Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining planning applications. In that regard, we note that aside from a very limited analysis

provided in the Design and Access Statement and an visual assessment of the impact of the development on the surrounding environs, there is no specific assessment on what effect the proposed development will have on the Conservation Area, or even an assessment of the contribution Emmaville makes to this designation. Similarly there is no assessment of the impact the proposed development will have on historic assets within the surrounding environs, including Eastlea, Milford and the 'County Treasure' of the Police Station (all are located to the south of the A48 and immediately opposite the proposed access and proposed Section 278 works) and the Three Tuns Listed Building located immediately to the south west of the application site and to the north of the A48.

It is noted that in the Council's pre-application response it was highlighted that the proposed development would ***"have the potential to significantly impact the setting of the Conservation Area and would be very visible on the approach to the village."***

On this basis the Council advised the applicant that ***"careful consideration should be given to ensuring that the proposed development would not have any adverse impact on the character of the conservation Area, through use of sensitive and suitable house design and layout."***

Moreover, in response to the proposed allocation of land to the east of St Nicholas, the Council's own Conservation Officer had concerns over the impact of the proposed allocation on the St Nicholas Conservation Area. In their consultation response, the Officer stated that:

***"The site lies outside, but immediately adjacent to, the St. Nicholas Conservation Area. The St. Nicholas Conservation Area Appraisal and Management Plan identifies a significant view out of the Conservation Area across the site in a NE direction from the A48 at 'Mink Hollow' approximately along the line of the public footpath."***

The proposed development, which would lead to the loss of a property and the development of highways works in the heart of the designation, would clearly lead to an adverse impact. No robust information has been submitted by the applicant to indicate otherwise.

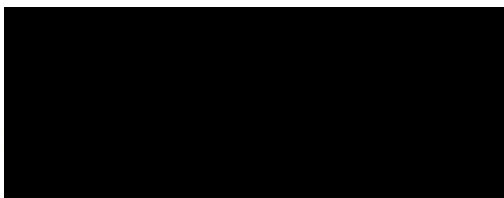
There can be no certainty that the proposed development will have ***"no unacceptable impact on the Conservation Area"*** as claimed in Section 9 of the Design and Access Statement.

## Summary

I object to the proposed development on the following grounds:

- In accordance with Section 38(6) of the Planning and Compulsory Purchase Act, applications for planning permission should be determined in accordance with the Development Plan unless material considerations indicate otherwise. For the Vale of Glamorgan, the UDP forms part of the Development Plan.
- National Planning Policy states that where there is a time lapsed Development Plan, as is the case in the Vale, the presumption in favour of sustainable development applies. It follows that there is a presumption against unsustainable development. The present application constitutes unsustainable development.
- Para. 4.2 of PPW outlines that certainty over the Plan will only be achieved on receipt of a binding Inspector's Report. In advance of that, Local Authorities will need to consider the evidence base and the background to policies when assessing development proposals.
- the key objectives of the emerging Vale LDP have not been properly articulated in the emerging land use planning policies, including:
  - the LDP seeks to ensure new development is of a scale appropriate to its location, but the allocation of land to the East of St Nicholas could see the population of the village grow by 65%;
  - despite seeking to minimise the need to travel, the proposed allocation is made at a settlement which only has services and facilities to meet local needs;
  - The LDP seeks to protect and enhance historic environments, yet the allocation will have a detrimental impact on the St Nicholas Conservation Area;
  - The LDP seeks to meet the housing needs of each community, yet there isn't an identified housing need in the East of the Vale.
- The application does not accord with emerging Planning Policy as:
  - The access is inappropriately located;
  - It would not provide the housing development and quantum of public open space required; and
  - The development does not remedy deficiencies in children's play space.
- A number of recent Appeals have demonstrated that a shortfall in housing land or a time lapsed Development Plan does not lead to unsustainable development being considered as being acceptable.
- The proposed development does not accord with the key principles and policy objectives provided by PPW.
- It could have unacceptable impacts on community infrastructure.
- The proposed development would have an unacceptable detrimental impact on the St Nicholas Conservation Area.

Yours Sincerely,



*Bryan J Davies*

Lynne Davies

Orchard Cottage  
St Nicholas

CFS 6SG

31 March 2015

Mr. S. Rennie  
Development Control  
Vale of Glamorgan Council  
Dock Office  
Barry Docks  
Barry  
CF63 4RT

Dear Mr. Rennie,

**Ref: 2015/00249/FUL - Land to East of St Nicholas**

I am objecting to the above planning application. Neither the site of the planning application, nor the proposals for this site appear to relate sound spatial planning practices, the Wales Spatial Plan or Planning Policy Wales (PPW) and relevant Technical Advice Notes (TAN). Further, the plan does not appear to deliver the intentions of the emerging LDP.

My concerns include:

- The Welsh Government's presumption against unsustainable development;
- The existing Development Plan;
- Emerging Planning Policy;
- The lack of supporting community infrastructure;
- The loss of finite, scarce agricultural land rated: good;
- The impact of the proposed development on the St Nicholas Conversation Area the Ely Valley and Ridge Slopes Special Landscape Area;
- The site's sustainable accessibility to places of employment, services, and facilities; and
- The objectives of spatial planning and PPW generally.

Each issue is considered in turn below.

#### **The Decision Making Framework**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 4.2.4 of PPW indicates that where: there is no adopted development plan; relevant development plan policies are considered outdated or superseded; or where there are no relevant policies, then there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.

**It follows therefore that PPW does not support unsustainable or inappropriate development that fails to accord with the key principles and objectives it sets out.**

For the reasons outlined in this letter of objection, my Client argues that the proposed development cannot be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply.

### Existing Development Plan

Within the Vale of Glamorgan, the Unitary Development Plan (1996-2011) forms the Development Plan. Accordingly applications should be considered against this planning framework in the first instance, unless material considerations indicate otherwise.

As indicated in the applicants Planning Statement, the application site lies outside the settlement boundary for St Nicholas as defined by the Vale of Glamorgan UDP and is therefore wholly within the countryside. Other planning policy constraints associated with the site include its location within:

- The St. Nicholas Conservation Area (partly); and
- The Ely Valley and Ridge Slopes Special Landscape Area.

There is a need to ensure that the proposed development accords with the key principles and policy objectives of sustainable development, as set out in PPW. The proposed development does not meet the criteria required to be considered as being sustainable development and therefore the presumption in favour of the proposal should not apply in this instance.

### The LDP Strategy

Whilst we acknowledge that the site is a proposed allocation within the Deposit Plan, it itself has not been subject to Examination in Public. Therefore there can be no certainty that a development of this scale in such a small village will be considered as being sustainable development. Guidance is clear that the weight to be given to the emerging plan is limited until the Inspectors Report is published.

Planning Policy Wales in clear that:

*“Certainty regarding the content of the plan will only be achieved when the Inspector publishes the binding report. Thus in considering what weight to give to the specific policies in an emerging LDP that apply to a particular proposal, local planning authorities will need to consider carefully the underlying evidence and background to the policies. National planning policy can also be a material consideration in these circumstances (see section 4.2).”*

I have significant concerns over the translation of key objectives into practice within the emerging plan. Indeed, key objectives and supportive text indicates:

- **Objective 1:** To sustain and further the development of sustainable communities within the Vale of Glamorgan, providing opportunities for living, learning, working and socialising for all.

In achieving Objective 1, it is indicated that the LDP will seek to ensure that the role and function of the towns and villages identified in the sustainable settlement hierarchy is maintained and enhanced by ensuring that new development is of a scale appropriate to its location, supports the local economy and sustains and wherever possible improves local services and facilities.

- **Objective 2:** To ensure that development within the Vale of Glamorgan makes a positive contribution towards reducing the impact of and mitigating the adverse effects of climate change.

In order to achieve this, it is indicated that new development will be located in sustainable locations that minimise the need to travel.

- **Objective 4:** To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment.

The LDP will ensure that these built environmental assets are protected, conserved and where appropriate enhanced.

- **Objective 7:** To provide the opportunity for people in the Vale of Glamorgan to meet their housing needs.

The LDP will provide a range and choice of housing, including affordable housing, in sustainable locations that support the needs of the local community.

However, we do not consider that these objectives have been translated into policies within the Plan and cannot form a sound basis for decision making.

This is most obviously noted when assessing the existing population of St Nicholas. The Council's Sustainable Settlements Background Paper (2013) estimates the population of the village to be 339 residents (Appendix 1 refers). On the basis of an average household size of 2.21 (the figure quoted in 2016 within Table 5 of the Council's Population and Housing Background Paper, 2013) the entire development could lead to a new population of 221 residents. This would increase the size of the village to 560 residents, which equates to an increase of 65%.

This is a very significant increase for a village with such a poor accessibility to services and facilities. There is only a Primary School (minus a nursery) and 2 bus stops within an acceptable walking distance of the site.

Similarly, the Sustainable Settlements Background Paper also identifies that the services and facilities within St Nicholas, helps to meet *"local needs within rural areas"* (para. 6.6 refers).

Given that, by the applicants own assessment, there is poor accessibility by sustainable modes of transport (i.e. walking, cycling and public transport) that the level of development proposed on the wider site (i.e. the proposed allocation to the east of St Nicholas) may be considered at Examination to be a too great a quantum of development for the village.

Moreover, we note that Table 8 of the Council's Local Housing Strategy (2015-20) identifies that there is no affordable housing need within the East Vale area.

These concerns were also raised in correspondence by the Welsh Government in their response to the Revised Deposit LDP, dated 20<sup>th</sup> December 2013. The correspondence, which also argues that the proposed Plan is potentially in conflict with some of its Key Objectives, states that:

*"It is unclear how the role and function of settlements has been reflected with regard to the scale of housing proposed. While the scoring matrix focuses on 'functional links' (Sustainable Settlements Appraisal 2013) the services and facilities in many of the minor rural villages themselves appear poor. Allocation in some minor rural settlement, for example, 100 units at St Nicholas and 120 units at Bonvilston appear disproportionate to current services and facilities."*

Furthermore:

*"While it is acknowledged that one of the aims of the plan is to support facilities in minor rural villages, it is not clear that the rationale for allocating over 940 units in such areas has been fully evidenced."*

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*"...It is unclear as to what extent the LHMA has informed the spatial distribution of housing in this Deposit Plan or how the need for affordable housing has influenced the number and location of sites in this plan."*

Issues relating to the spatial strategy of the emerging LDP must be considered to go to the very heart of the plan making process. This view has also been articulated in the Welsh Government response to the Revised Deposit Plan. Accordingly, without having been subject of an Examination in Public, these proposals must be

considered as being premature, particularly when they will undoubtedly lead to such an irreversible change to the character the village.

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Whilst the explanatory text is silent on the matter, given the pre-application response provided by the Vale of Glamorgan Council which states that access "**would be most appropriate directly off the A48**" and the way in which the allocation is drawn on the Deposit Draft LDP Proposals Map, that site access was envisaged to be provided to the east of the settlement boundary.

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- The additional land has not been included within this application and therefore there can be no certainty that the allocation will deliver in its entirety; and

Moreover, the public open space offer is meant to render the existing deficiencies, which are associated with children's play space and outdoor sports provision, as evidenced within the Council's Open Space Background Paper (2013).

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Accordingly, for the reasons outlined above, the submitted application conflicts with the emerging LDP.



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