

### **WG Development at Cosmeston, Penarth**

**Summary** We ask the Petitions Committee to remind the Minister for Finance that the Welsh Government has much wider responsibilities in the use of its land-holding than a private developer. Her reliance on the LDP process is particularly dubious, when her officials misled the LDP Inspector over the suitability of the site for development. Her failure to consider the WG priorities of the Cardiff area Metro, Wales Coastal Path and Severn Marine Protection Area are salutary. Now that the site investigation has confirmed the badly-managed 1980s landfill and established asbestos and priority chemicals in the landfill, she has responsibility as developer "to ensure that the land is suitable for the development" of schools and housing. Her private consultants are trying to get away with the minimum - investigating only one third of the toxic landfill and not determining the pathway of the pollution - proposing minimal remediation and concealing ESP's view that excavating the toxic hotspots may be uneconomic. As the WG planning guidance says, the best use of such contaminated land may be restoration for nature and amenity.

The LDP and WG development date from times prior to the Future Generations and Wellbeing Act, and various policies linked to the climate emergency. Covid has upset all projections. Housing developments must now aim to create communities with local facilities, not edge-of-town housing sprawl dependent largely on car travel. The VoG LDP is up for review and revision this year; the Minister cannot rely on its outdated planning views.

### **Background to this WG Landholding**

The Land Authority for Wales bought this land in 1977 without assessing the industrial contamination. It had permission for a Vale of Glamorgan Borough Council tip in its old quarry. Staff had termed the Council's previous tip in the quarry north of the Cosmeston Lake a "disaster area", which could have warned the LAW. This new tip was supposed to have a basal layer - the recent test boring shows none. It was supposed to accept 'special' chemical wastes only with written permission, but the test boreholes show chemicals dumped without any records. The site was open, unsecured out of hours, allowing uncontrolled dumping by private lorries; mud on the roadway showed they bypassed the wheelwash.

From 1977 onwards, the LAW as new landowner must have turned a blind eye to all this bad practice. The Borough Council took advantage of the LAW's trust. The stage 2 assessment by geophysical consultant ESP revealed two priority chemical contaminants and high risk; they warned that excavating the contamination is likely to be uneconomic. In stage 3, ESP proceeded to assess the problem as zero risk, while admitting they had not assessed most of the landfill and their hydrology model could be wrong. Their assessments of the EU priority chemicals cadmium and anthracene are definitely wrong, so this landfill is a very real problem. Note that the WG consultants Asbri and Cambria concealed the ESP recommendation of further survey of the quarry landfill and the inadequacies in their modelling. The WG can argue with the VoG Council the responsibility for the potentially costly contamination.

The WG submitted this site under the LDP process as suitable for housing. It was their responsibility as long-term owner to know of its toxic contamination. Some asbestos was found as

well as petroleum chemicals in surface soils, yet the WG had rented it out for farming. They had records of the old landfill, yet instead accepted the VoG's unevidenced statement in the LDP that contamination is "low", thus colluding in misleading the LDP Inspector. The Minister should be aware that PPW says contaminated sites might be better left undeveloped for nature and amenity, to avoid the risks of pollutants to residential and school uses. Contradicting the Minister writing that the Council is responsible for judging the development is acceptable, PPW says

*6.9.14 Responsibility for determining the extent and effects of surface and subsurface hazards remains with the developer. It is for the developer to ensure that the land is suitable for the development proposed,*

ESP's suggestion of covering contaminated open ground with geotextile and importing 2-metres cover and soil has been omitted by their planning consultant Asbri, perhaps as that looks both costly and unsustainable.

### **Ignoring wider WG policies**

Though WG knew of the Wales Coastal Path, they omitted to mention the need to set-back development from the coast, instead submitting for the LDP nearly all their land-holding (excepting a few metres of the present path). They made no attempt to balance the needs for the Coastal Path as a Welsh priority with the desire to profit from development. With a coastal strip of 40m as at adjacent housing, the area would have been reduced and the estimated number of homes likewise.

Though the Penarth to Sully rail-line runs through the site, the WG did nothing to consider running metro trains through to Cosmeston. This is despite the potential for extending the existing Penarth line through to lower Penarth, as in the initial spec for metro-bids; this and further extension to Cosmeston would be more feasible for the battery-system chosen, yet the Minister ignored this Welsh Government priority. The Finance Minister uses advisors and consultants who see only development profit, not sustainable development criteria.

NRW are supposed to appraise the ESP modelling, as the pollution could affect the nearby Sully Brook, which is controlled water. But NRW didn't, they just accepted the modelling despite obvious inadequacies. One issue is cadmium, a priority persistent, bioaccumulative and toxic (PBT) chemical. ESP applied human toxicity (drinking water standard) not biotoxicity. Because of cadmium's biotoxicity, the WHO called in 2018 for maximum efforts to keep cadmium out of the environment (eg. stopping cadmium batteries). With the WHO being based on the 2010 priority chemical list and the REACH process, the WG is obliged to make efforts to dig out the cadmium hot-spots and dispose of the material safely.

### **Procedural Fairness**

This is an EIA application, with the applicant specifically required to facilitate public consultation

Frie3nds of the Earth put to the VoG Council:

*The applicant writes that the documents would be available for viewing by the public. As public libraries and offices do not allow this, is it not both reasonable and required by EIA legislation for the applicant to provide this viewing opportunity? They could for example hire the closed Cosmeston*

*Park café from the Council, or the Paget Rooms from the Town Council, and organise viewing there with appropriate Covid precautions once the lockdown is over.*

In comparison, for the consultation on the St Mellons incinerator under the Planning Inspectorate Wales (DNS planning application), the company did hire the Beacon Centre for people to view the documents there.

The VoG case officer declined to ask the WG/Asbri to do likewise, saying "*Whilst I therefore appreciate your concerns, I consider the requirements of the relevant legislation in terms of publicity have been met*". This rejection without citing precedent or legislation reflects the Council's bias and interest in getting approval for school(s).

### **VoG Pre-determination**

Welsh Government rules allow use of land in a Green Wedge only "very exceptionally". The Minister does not argue any permitted "very exceptional" grounds. She tacitly admits WG officials colluded with the VoG to permit extending the development onto the Farm site despite the infringement of the rules. The documents submitted do not give evidence arguing it complies with the "very exceptional" rule. Nor do they give evidence that the remaining farmland can be effectively farmed without the farm buildings. Note that most of the land was not farmed in 2020 because no other (remote) farmer was prepared to take it on.

### **Does not conform with the adopted Vale of Glamorgan Local Development Plan**

Development in the Green Wedge is the reason cited for non-conformity. That would not qualify for call-in if the conditions for exception were followed. But the VoG and WG are colluding to develop in the Green Wedge without complying. This collusion "*raises issues for more than local importance*".

The LDP was for an amount of housing plus a primary school, plus recreational land on the designated site. The given housing number was a maximum based on the total area and 30 dwellings per hectare. Taking more than expected for the school and more for a green-way along the old railway, and more for setback from the coastal path cuts down the housing numbers.

The Minister claims surprise at the VoG proposals for a special school on further Green Wedge land owned by her Department. The fact is that her officials have colluded with the VoG Council, coming to an agreement over the sale price if the VoG can get planning permission. Once the site gets development permission, its value would be far higher than farmland price. By encouraging the VoG to site the school on their Green Wedge site, they are corruptly trying to make a development gain. The Minister should be pressed to disclose the provisional agreement to sell the land to the VoG.

### **Lack of adequate transport/highway infrastructure**

The only assessment for the LDP was the owner/WG "sustainability appraisal". The Highways response was there's no capacity for additional vehicles on the local roads, particularly the Barons Court and Merrie Harrier junctions. They specified that any developer should show "nil detriment" on existing traffic conditions. The WG cannot of course do that, except by making provision for

offsetting measures which they have not done. They should therefore withdraw and rethink, but expect to finesse the condition via leniency by the VoG Council.

### **The proposed development would have wide effects**

It's now accepted that the Wales Coastal Path would suffer detriment and could be ruptured by coastal erosion. The designation of the Severn SAC as a *Marine Protected Area* in 2018, part of the international integrated network of MPAs, was also not known for the LDP. The Welsh Government needs to consider whether these two nationally important aspects require them to assign their land-holding to uses relating to them rather than for financial gain. The Minister and her department cannot do this of herself.

### **Substantial controversy beyond the immediate locality**

Traffic grounds certainly give such controversy. As said above, the 'nil detriment' condition was supposed to deal with this, but the VoG Council is not applying it. Since the LDP, the WG Metro has become a reality - new housing should be aligned with that, not in expectation of private cars supplying the majority of travel.

### **The Local Development Plan**

Since the LDP was written, the Welsh Govt has declared 'climate emergency' and issued a Future Generations & Wellbeing Act, both implying we cut back building on green fields. The Cosmeston site scored very low on "sustainability", being far from urban facilities. The Housing Minister told house-builders they must design 'communities' with local facilities, not such edge-of-town sprawl. The new transport strategy Llwybr Newydd issued in November specifies reducing the need to travel and making sustainable transport more affordable and appealing. The Cosmeston proposal does the opposite.

The Minister's argument for the 220 'affordable housing' being necessary looks stupid when this location without shops means high dependence on car-trips. Choosing locations where residents can manage without a car is now high priority. Cosmeston is no longer "acceptable".

Covid has upset all projections of housing need. Most of the housing growth in the eastern vale is for people working in Cardiff. The city's future as a concentration of workplaces is very uncertain. During Covid, housing developments in the Vale and Cardiff West have gone slow. The LDP is coming up for a mid-term review from mid 2021-22. That is the opportunity for rethinking housing and linking it properly with the new transport strategy.

### **architectural heritage and archaeological remains**

The VoG archaeological advisers GGAT said the WG should come up with a plan that preserved the historic farm-buildings. The Minister or her planning consultants ignored this. Pretending that the primary school can use and adapt these is ridiculous. The site that is Green Wedge land would have to accommodate activities that value the historic buildings, probably related to the Medieval Village just over the road.