

Caerphilly Local Development Plan

Examination

Hearing Session 1

PLAN PREPARATION, STRATEGY AND POLICY CONTENT

Tuesday, 20th April 2010 (Rhymney Room)

Miller Argent (South Wales) Limited

Representor No. 1844

SUPPLEMENTARY STATEMENT

8 Other policy matters

- Is the requirement to maintain or enhance the main characteristics of SLAs and VILLs in Criterion A of policy CW 8 Natural Heritage Protection too restrictive?

8.1 The relevant part of Policy CW8 states that:
“Development proposals that affect locally designated natural heritage features, will only be permitted:

A *where they either maintain or enhance the main characteristics of designated Special Landscape Areas (SLA) or Visually Important Local Landscapes (VILL)”*

8.2 Miller Argent’s response is that Criterion A of policy CW 8 Natural Heritage Protection is too restrictive for two main reasons:

- i. They are non-statutory landscape designations and the level of protection afforded to them is not consistent with national policy and guidance; and
- ii. VILLs do not meet the criteria for SLAs and should be omitted from Policy CW8. If the Council wish to retain the VILL designation in the LDP they should be included under a separate policy that reflects their lower value.

NATIONAL POLICY.

Planning Policy Wales 2002

8.3 National policy for *“Conserving and Improving Natural Heritage and the Coast”* is set out in part 5 of Planning Policy Wales (PPW). At paragraph 5.1.3 this states that:

*“A key role of the planning system is to ensure that **society’s land requirements are met in ways which do not impose unnecessary constraints on development whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment.** However, conservation and development can often be fully integrated. With careful planning and design, not only can the potential for conflict be minimised, but new opportunities for sustainable development can also be created. For example, new development on previously developed land provides opportunities to restore and enhance the natural heritage through land rehabilitation, landscape management and the creation of new or improved habitats.”* [Emphasis added]

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- 8.4 In section 5.3 of PPW it is recognised that *“Many of the most important areas of landscape quality have been statutorily designated”*, which in Wales are National Parks and Areas of Outstanding Natural Beauty (AONBs). In relation to non-statutory designations it states at para 5.3.11 that:
*“Non-statutory designations, such as Special Landscape Areas should be soundly based on a formal scientific assessment of the nature conservation, landscape or geological value of the site..... **Such designations should not unduly restrict acceptable development.**”* [Emphasis added]
- 8.4 It further states at para 5.4.4 that:
*“Although non-statutory designations carry less weight than statutory designations, they should be given adequate protection in UDPs..... [However] **Policies for non-statutory sites should make it clear that such designations do not preclude appropriate socio-economic activities.**”* [Emphasis added]
- 8.6 Criterion A of policy CW 8 does not reflect the provisions set out in PPW that non-statutory designations, such as SLAs, should not unduly impose an unnecessary constraint on development.

Minerals Planning Policy Wales 2000

- 8.7 In relation to the areas for future working of energy minerals, Minerals Planning Policy Wales (MPPW) states at para 15:
*“Mineral planning authorities should therefore consider all available information on the extent of energy mineral resources. They must provide as much guidance in their unitary development plans as possible to indicate where it is likely to be environmentally acceptable for these resources to be worked. **To achieve this degree of certainty, policies should state where such operations would not be acceptable and should provide unequivocal statements as to why, and should also provide a set of clear criteria against which any future proposals will be assessed in those areas where there is a possibility of extraction.**”* [Emphasis added]
- 8.8 In addition to setting out policy for statutorily designated areas, Part 1B of MPPW contains advice in relation to ‘Other Environmentally Important Areas’ such as Special Landscape Areas. In that regard it states at para 26 that:
“Proposals which fall within locally designated areas will need to be given careful consideration, and the degree of protection should be commensurate with their relevant importance to the biodiversity and/or landscape of the area concerned. Where appropriate therefore, proposals should be judged against and generally in accord with Local Bio-diversity Action Plans and Local

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Agenda 21 strategies. For the sake of clarity, plans should set out clear and distinct policies for statutorily designated areas and non-statutorily designated areas."

8.9 In relation to coal, MPPW states at paras 61 and 62 that:

"Opencast coal is generally more flexible and cheaper to produce than deep-mined coal, but there are important environmental and amenity issues involved, and these require very careful consideration.

Proposals for opencast or deep-mine development or colliery spoil disposal will be expected to meet the following requirements otherwise they should not be approved:

- The proposal should be environmentally acceptable or can be made so by planning conditions or obligations, and there must be no lasting environmental damage;*
- If this cannot be achieved, it should provide local or community benefits which clearly outweigh the disbenefits of likely impacts to justify the grant of planning permission."*

8.10 Criterion A of policy CW 8 does not reflect the provisions set out in MPPW for the following reasons:

- The level of protection is not commensurate with the relevant importance of the landscape of non-statutory designations;
- It does not provide a set of clear criteria against which any future proposals will be assessed;
- It does not take into account local or community benefits that may accrue from development proposals.

Minerals Technical Advice Note 2: Coal

8.11 In relation to development control policies for mineral applications, MTAN2 states at para 46:

"MPAs should set out in the LDP or in SPG the criteria against which they will assess the impacts in considering an application, or review of Conditions. The MPA will consider the effects on the surrounding environment and communities, and where these effects cannot be adequately controlled or mitigated, the second test of MPPW [see para 8.10 second bullet] must be applied. MPAs should make clear the principal criteria they will use in determining local or community benefits."

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- 8.12 MTAN2 provides guidance on 'Protecting areas of importance' including statutory and other landscape designations. Under the latter category the guidance states at para 82:

"Where coal working would destroy or degrade mature landscapes, ancient woodlands, important hedgerows which are features of the landscape of major importance for wild flora and fauna, or venerable trees it should only be permitted if reclamation benefits would outweigh the demonstrable harm. PPW states that ancient and semi-natural woodlands are irreplaceable habitats of high biodiversity value which should be protected from development that would result in significant damage."

- 8.13 It is clear from the advice contained in MTAN2 that the effects on the surrounding environment and communities arising from mineral extraction projects may be acceptable where they can either be adequately controlled or mitigated, or where local or community benefits accrue. Criterion A of policy CW 8 does not take either of these scenarios into account and is therefore unnecessarily restrictive.

POLICY CW8 – POLICY CONTENT AND WEIGHTING

- 8.14 CCW published the final version of LANDMAP Information Guidance Note 1 titled 'LANDMAP and Special Landscape Areas' in June 2008. The guidance note relates to local landscape designations in Wales, all of which, for the purposes of the guidance are referred to as Special Landscape Areas. Section 3 of the note describes Special Landscape Areas as *"a non-statutory designation applied by the local planning authority to define areas of **high landscape importance** within their administrative boundary."*
- 8.15 VILLs are described in the Caerphilly CBC 'Designation of Visually Important Local Landscapes' report (SB48) as *"areas of some Visual and Sensory **importance but that did not rate sufficiently in conjunction with other aspects to justify inclusion within the new SLA system**. However, it is felt that these areas require some form of protective designation, for which the title of Visually Important Local Landscape (VILL) has been created"*.
- 8.16 VILLs do not meet the SLA criteria and should not be included in an SLA policy. This is accepted in the Caerphilly CBC report 'Designation of Special Landscape Areas' (SB47) which states at page 10 that:

"In developing the methodology for designating SLAs, emphasis has been placed on using most aspect areas evaluated as 'Outstanding' and 'High' as the basis for their designation. Whilst all parties accept this approach, within the LANDMAP Information System the definition of the 'Moderate' evaluation level is "locally important". It has been argued that by definition this matches

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*the concept of a SLA. However, the majority of the local authority area is evaluated as "Moderate" with the exception of the Cultural Landscape aspect topic layer (see Figure 6.0). Therefore to use the 'Moderate' aspect areas as part of the core of designating SLAs would result in the majority of the Borough being given that designation. **This would both devalue the policy designation but also go against the guidance in Planning Policy Wales.***

- 8.17 It is therefore Miller Argent's submission that it is inconsistent to apply the same degree of protection to SLAs and VILLs, and that the inclusion of VILLs devalues the policy and goes against national planning policy and guidance. Should it be decided that an additional layer of protection is to be provided, then a separate policy should be included to cover VILLs with a separate set of development control criteria that reflects their subordinate status.

Miller Argent (South Wales) Limited
15th April 2010