

Pre-Hearing Meeting: 4 March 2010 at 10.00 am

Hearings Commence: 20 April 2010 at 10.00 am

Location: Ty Penallta
Tredomen Park, Ystrad Mynach,
Hengoed CF82 7PG

Inspector: Alwyn Nixon BSc(Hons), MRTPI

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Barbara Prosser - Programme Officer

Caerphilly County Borough Local Development Plan Examination

1. Introduction

1.1 These Guidance Notes have been prepared to assist those individuals and organisations who wish to be involved in the Examination into the soundness of the Caerphilly County Borough Local Development Plan 2006-2021 ('the Plan'). The Plan was formally submitted to the National Assembly for Wales on 7 October 2009 for independent examination as to its soundness, as required by Section 64 of the Planning & Compulsory Purchase Act 2004.

1.2 Public consultation on the Deposit Plan took place for a six week period commencing on 15 October 2008, in accordance with Regulation 17 of The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005. A further consultation exercise was undertaken in respect of Alternative Sites proposed in the representations received for a six week period commencing on 28 January 2009. The Council considered all of the representations on 15 September 2009 and resolved to put forward a total of 19 Focussed Changes and a number of lesser "Other Changes" to the Plan for consideration as part of the independent Examination. These have been the subject of an additional 6 week consultation exercise, which ended on 4 November 2009. The Council reconsidered certain of the Focussed Changes at a Special Council Meeting on 1 December 2009 and resolved to retract 7 of these by way of Additional Focussed Changes. These have also been the subject of a 6 week consultation period, ending on 17 February 2010.

1.3 It is important that all those who wish to be involved in the hearing sessions of the Examination attend the Pre-Hearing Meeting. However, only those who made representations at the Deposit stage, on the Alternative Sites proposed by others or on the changes put forward by the Council after Plan Deposit are involved in the examination process; and only those who consider the Plan to be unsound and seek changes in order to make it sound are normally involved in the oral Hearings.

2. Inspector and Programme Officer

2.1 The Ministers of the Welsh Assembly Government have appointed the Inspector, **Alwyn Nixon BSc(Hons) MRTPI**, to hold the independent Examination into the soundness of the Caerphilly Local Development Plan.

2.2 The Programme Officer for the Examination is **Barbara Prosser**. She is acting independently of the Council and under the Inspector's direction. She is responsible for organising the programme of hearings, maintaining the Examination Library, recording and circulating all material received, and assisting the Inspector with procedural and administrative matters. She will advise on any programming and procedural queries. Any matters which the Council or other participants wish to raise with the Inspector should be addressed to the Programme Officer. Her contact details are as set out on the front cover of these notes.

3. Purpose of the Examination

3.1 The purpose of the Examination is to examine the soundness of the Plan. It is important to note that the term "Examination" covers the whole process of examining the Plan, from the time

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of submission to the Welsh Assembly Government to receipt of the Inspector's report by the Council.

3.2 The Inspector's role is to consider whether the Plan meets the requirements of Sections 62-64 of the 2004 Act and associated regulations and whether it complies with paragraphs 4.34-4.35 of Local Development Plans Wales: Policy on Preparation of LDPs, *December 2005* (LDP Wales). These requirements fall into two broad groups: whether **legal requirements** have been met; and whether the Plan satisfies **soundness tests** that the strategy is justified, effective and consistent with national policy. The Council should rely on the evidence used in preparing the Plan to demonstrate that it is sound. Those seeking changes to the Plan have to demonstrate why the document is not sound and how the suggested changes would make it sound.

3.3 The process of examining a local development plan is different from the previous process of considering objections to a unitary development plan or local plan:

- **The starting point for the Examination is that its purpose is to examine whether the submitted Plan is sound.**
- In examining soundness under the new system, the Inspector has to consider the representations made to the submitted Plan, but only insofar as they relate to the tests of soundness set out in LDP Wales.
- The Inspector is not required to determine and report in relation to each and every point made in every objection, but to use the representations as the starting point in considering whether the Plan is sound.
- The Inspector also has to exercise his duties under Section 39 of the 2004 Act with the objective of contributing to the achievement of sustainable development.
- At the end of the Examination process the Inspector will produce a binding report containing recommendations and the reasons for the recommendations.

3.4 An important element of the new system is that the Hearing sessions of the Examination are intended to be an inquisitorial process under the Inspector's direction, rather than the previous more adversarial approach between local planning authority and objector. The process of examining the soundness of the Plan will generally be conducted as a series of round-table sessions led by the Inspector and addressing particular topics or issues, rather than individual representations. The topics identified for discussion arise from the questions as to the soundness of the Plan raised by the representations made or identified by the Inspector.

3.5 National policies as such will not be debated, but the Examination will consider the application and implications of such policies where such matters arise from the particular policies and proposals within the Plan. **Throughout the Hearing sessions the focus will be on whether the submitted Plan is sound. It is not the purpose of the Examination process to recommend changes to a Plan, where it is found to be sound, that would further enhance its soundness.**

3.6 At the end of the Examination the Inspector will submit his report to the Council with his conclusions and recommendations on the actions or changes needed as regards the soundness of the Plan. These recommendations are binding on the Council and any recommended modifications to the Plan must be made before it is adopted by the Council.

3.7 The following publications provide the procedural framework for the conduct of the Examination:

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- Local Development Plans Wales: Policy on Preparation of LDPs, *Welsh Assembly Government, December 2005*.
- Local Development Plan Manual, *Welsh Assembly Government, June 2006*.
- Part 6, Sections 62-72 of Planning & Compulsory Purchase Act 2004.
- Town and Country Planning (Local Development Plan) (Wales) Regulations 2005.
- Local Development Plans: Examining Local Development Plans Procedure Guidance, *The Planning Inspectorate Wales, November 2009*.
- Frequently Asked Questions on the Examination of Development Plan Documents [Planning Inspectorate].

Participants should familiarise themselves as appropriate with the relevant parts of the above. Most of the guidance to procedures is set out in LDP Wales, the LDP Manual and the Planning Inspectorate's procedure guidance. These documents can be viewed via the LDP Examination website <http://www.caerphilly.gov.uk/LDPExamination>, or in the Examination documents library organised by the Programme Officer.

4. The Pre Hearing Meeting

4.1 The Pre Hearing Meeting (PHM) will take place on **Thursday 4 March 2010**, in the Council Chamber, Ty Penallta, Tredomen, Ystrad Mynach at **10.00am**. The purpose of the Pre-Hearing Meeting (PHM) is to explain and discuss procedural and administrative matters relating to the management of the Examination, including the programme for the hearings; the matters to be examined and related questions; the running order and participants; the methods of dealing with representations; the timetable for submitting any additional material that may be required; and any other relevant matters. **The merits of the Plan and the representations will not be discussed at this meeting.**

4.2 At the PHM, the Inspector will ask the Council to confirm that the Plan has been prepared in accordance with the statutory procedures under Section 64(5)(a) of the 2004 Act and associated regulations, and is supported by a Sustainability Appraisal. He will also clarify the position in respect of the Statement of Community Involvement and the Revised Delivery Agreement. To ensure that there are no fundamental procedural shortcomings at this stage, the Council has produced its own Self-Assessment of Soundness of the Plan. All relevant documents are available on the Examination website.

4.3 An agenda for the PHM is enclosed with these notes, together with a draft list of Hearing sessions around which the Inspector intends to structure his Examination. A note of the PHM, along with the Programme for the Hearing sessions and the Matters and Issues for Examination will be circulated to all those who have made representations shortly after the PHM. The Council has already formally advertised the date of the PHM and will advertise the start of the Hearing sessions of the Examination at least 6 weeks before **20 April 2010**.

5. Representations on the Plan

5.1 Under Regulation 22(2)(iv) of the LDP Regulations, the Council has stated that some 1758 representations were received from organisations, bodies and individuals within the specified 6-week period following the publication of the Plan (Deposit Plan). These representations included 10 petitions relating to various sites. Of the representations made, 1413 considered the Plan unsound, 292 supported the Plan and 53 representations were comments which did not express a view as to the Plan's soundness. Another 52 representations were not duly made within the deadline for consultation responses. At the stage of consultation over Alternative

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Sites, there were 110 representations of support, 266 representations of objection and 155 representations making other comments. A further 22 representations were made after the consultation deadline or did not relate to an Alternative Site.

5.2 Councils should avoid changes to the deposited Plan as far as possible. Such changes should not normally be necessary, if the plan making process has been carried out properly and the Plan is founded on robust evidence. However, exceptionally, the Council may consider that late changes are necessary in response to representations made or in response to some significant new evidence, in order to ensure that the Plan is sound. When considering such changes ("Focussed Changes") the Council must have regard to their effect, individually and cumulatively, on the Plan's overall soundness and to any resulting need to carry out a further sustainability appraisal. The Council must explain the reasons for the changes, with supporting evidence, and indicate the implications in terms of the soundness of the plan. They should ensure that these Focussed Changes have been subject to the same process of publicity and opportunity to make representations as the submitted plan. Any proposed Focussed Changes should include the precise wording of any amendments to the text and be set out in an Examination document.

5.3 The Council has proposed 19 Focussed Changes to the Plan, together with a number of lesser changes. 122 representations were received in relation to the proposed changes, of which 36 were objections. 37 further representations were made in relation to the subsequent 7 Additional Focussed Changes, of which 4 were objections.

6. Methods of considering representations

6.1 There are essentially two ways in which representations on the Plan will be considered:

- Written representations – based on the original representation, and the Council's response on the matters raised. The Inspector may also seek additional information by way of clarification. Most representations will be considered by this method. Written representations are not discussed at the hearings and attendance at the Hearing sessions is not necessary;
- Oral representations – where representors have indicated that they wish to have an oral hearing, relevant matters in the representations will be dealt with at a Hearing session of the Examination, where the Council and other participants debate the main points on the key issues identified by the Inspector in a structured and informed discussion directed by him.

6.2 **Both methods of representation carry the same weight and the Inspector will have equal regard to views put orally or in writing.** Some respondents have not stated a preference in terms of the method they wish their representation to be considered; unless invited to a Hearing by the Inspector, only those representors who have stated a wish to appear in person will be invited to participate in the Hearing sessions. Attendance at the Hearings will only be helpful if participants are able to contribute in terms of evidence as to the Plan's soundness. Only those parties seeking specific changes to the Plan are entitled to participate at the Hearing sessions of the Examination, and there is no need for those supporting or merely making comments on the Plan to attend.

7. Procedure at the Hearing Sessions of the Examination

7.1 The Hearing sessions of the Examination will commence on **Tuesday 20 April 2010** at 10.00 am. Subsequent sessions will normally start at 10.00 am and 2.00 pm, with a break for lunch at about 1.00 pm, and should finish at about 5.00 pm. A short break will be taken at

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convenient points in the morning and afternoon. The Hearing session dates as currently scheduled are set out in the accompanying sessions programme and are likely to take around six weeks to complete.

7.2 The focus in the Hearing sessions will be on the soundness of the Plan, having regard to the ten tests of soundness concerning procedural requirements and the Plan's consistency, coherence and effectiveness. A separate Hearing session will be held for each of the main topics outlined in the programme. The sessions will normally take the form of an informal round-table session, where the Council and those who wish to be heard discuss the key points identified. This will provide a means of examining the issues by way of a discussion led by the Inspector. Participants may bring professional representatives with them to speak on their behalf and may ask questions about the evidence, but there will be no formal presentation of evidence, cross-examination or formal submissions. Participants do not need to have legal representation. The Council is not intending to be legally represented at the sessions.

7.3 At the start of each session the Inspector will set out a detailed agenda with the points for discussion on each topic. The discussion will focus on the issues and matters identified in the agenda and the questions posed. The Inspector will begin by making a few brief comments on the matters to be covered, before inviting participants to make their contribution to the debate. The session will progress under the Inspector's guidance, drawing participants into the discussion in such a way as to enable him to gain the information necessary to come to a firm conclusion on the relevant issues. At the end of each session, participants will have the opportunity to briefly sum up the main points of their arguments.

7.4 The Hearings will be conducted on the basis that those taking part have read the relevant representations, statements and associated documentation, although participants will be able to refer to and elaborate on relevant points as necessary.

7.5 The Inspector will endeavour to progress the Hearing sessions in an effective and efficient manner, keeping a firm hand on the discussions and time taken. As part of that process, he will aim to minimise the amount of material produced that is necessary to come to informed conclusions on the issues.

8. Examination Programme

8.1 The Hearings part of the Examination is likely to last around six weeks. The Programme Officer will draw up a programme for the Hearings, which will be published, with the topics for discussion on each date, on the Council's website after the PHM.

8.2 Every effort will be made to keep to the programme, but late changes may be unavoidable. Priority will be given to starting the debate on each matter at the appointed time, but on occasions it may be necessary to extend the debate in the afternoon session. The Programme Officer will inform the participants of any late changes to the timetable, but it is the responsibility of the participants to keep themselves up to date with the arrangements and programme.

9. Preparation and submission of further material

Core documents

9.1 The Council has prepared an initial list of Core Documents, which is available to view in the Examination Library located at the Programme Office and also on the Examination website at

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www.caerphilly.gov.uk/LDPExamination These documents include relevant national policy and guidance, background papers, existing development plan and other policy documents, and any other documents to which they are likely to refer. The list of Core Documents includes the Council's full evidence base for the Examination. Other participants should ensure that any additional documents they intend to refer to are included in the list of Core Documents, and they should arrange for such documents to be sent to the Programme Officer (four copies will be required). Any further written statements or other material requested by the Inspector will be added to the Core Documents list as it is submitted.

9.2 The representations already made at the Deposit, Alternative Sites and Focussed Changes stages should have included all the points, documents and evidence intended to substantiate representors' cases. Participants should therefore not submit any further material based on the original representations.

9.3 Any further written submissions sought by the Inspector should specifically address the Matters and Issues for Examination identified by the Inspector. Where the Inspector considers that a further submission is necessary, the Council and others from whom a further submission is sought must respond to these questions at least **TWO WEEKS** before the hearing sessions open; i.e. by **6 April 2010**.

9.4 Submissions should focus on the issues/matters identified by the Inspector and on the tests of soundness and demonstrate why the plan is sound/unsound and how it could be made sound. All statements should clearly indicate the policy/paragraph/page of the Plan and the relevant soundness test(s). All submissions should be as concise as possible, avoiding unnecessary detail or repetition. There is no need for verbatim quotations from the Plan or other sources of policy guidance – a clear reference to the relevant part/paragraph will suffice. Nonetheless, it is vital that all evidence supporting the submission is included, since the Hearings are not the place for new points or evidence to be presented for the first time.

9.5 Participants should attempt to reach agreement on factual matters and statistics before the Hearings start and everyone is encouraged to maintain a dialogue with the Council and other participants in advance of the Hearings. Brief position statements and statements of common ground can be a useful way of focusing the issues/matters in dispute, and are encouraged as a means of achieving this.

9.6 The Programme Officer will require **4 copies** of all statements submitted. Statements should generally not need to be longer than 3,000 words for each Hearing session topic; the guiding principle should be that statements should be as concise and to the point as possible. Supporting technical evidence should be restricted to appendices and clearly related to the case. Any supporting material should be limited to that which is essential. Extracts from documents that are already in the Examination Library are not necessary. There is no need for summary statements. Statements should be on A4 paper, punched with two holes for filing, and unbound. Plans or diagrams should fold down to A4 size. All statements should be marked with the Council's Representation reference number, and should also be submitted in electronic form, if possible.

9.7 All participants should adhere to the timetable for submitting further statements. **Late submissions and additional papers are unlikely to be accepted at the Hearing session**, since this can cause delay, disruption and result in unfairness, and can result in an adjournment

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of the hearing. If material is not received by the deadlines stated, the Programme Officer will assume that no representations are to be made by that participant.

10. Availability of information

10.1 The Programme Officer will maintain an Examination Library at the Programme Office and online at the Examination website. This will contain copies of the Plan and associated documents, all representations, the Core Documents and further representations and statements, as received. The Library will be under the supervision of the Programme Officer, who will assist anyone wishing to see and copy any document.

10.2 The Programme Officer will maintain lists of all documents submitted. Lists of documents, the up-to-date Programme for the Hearing sessions of the Examination and other relevant material will be on display on the Examination notice board at the venue. Relevant information will also be included on the Council's website. Anyone requiring assistance or special facilities for disabled persons should contact the Programme Officer beforehand to enable appropriate arrangements to be made.

11. Site visit arrangements

11.1 As part of the Examination the Inspector will carry out a tour of the Borough to familiarise himself with the area, visiting locations referred to as necessary on an unaccompanied basis. If there are exceptional reasons for an accompanied visit, participants should discuss this with the Programme Officer.

12. Close of the Examination

12.1 The Examination will remain open until the Inspector's report is submitted to the Council. However, the Inspector will not accept any further representations or evidence after the Hearing sessions have finished unless he specifically requests further information. Any late or unsolicited material is likely to be returned.

13. Submission of Inspector's Report to the Council

13.1 After the Examination has closed, the Inspector will submit his report with binding recommendations to the Council. The date of submission will largely depend on the content, extent and length of the Examination, and the Inspector will confirm the likely date once the Examination Hearings sessions have been completed.

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