



Caerphilly County Borough Local Development Plan

WATER POLICY Statement of Common Ground

Caerphilly County Borough Council
and
Environment Agency Wales

Examination 2010

Caerphilly County Borough Council submission

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Statement of Common Ground

1. Legislative Background

- 1.1 The *Water Framework Directive (2000/60/EC)* (WFD) is the European legislation that sets out the requirements in relation to the water environment. The directive came into force in 2000 and became part of UK law in 2003. The WFD is designed to improve and integrate the way the water bodies are managed throughout Europe and seeks to;
- Enhance the status and prevent future deterioration of aquatic ecosystems;
 - Promote sustainable use of water;
 - Reduce pollution of water;
 - Ensure progressive reduction of groundwater pollution.
- 1.2 The WFD Regulations in England & Wales (SI 2003 No. 3242) place a duty on public bodies (Regulation 17) to have regard to River Basin Management Plans (RBMPs), CCBC lies within the Severn River Basin District. Whilst WFD does not make policy by which development proposals can be assessed, joint River Basin Planning Guidance (2006) by Defra and Welsh Assembly Government clearly sets out the relationship with development planning¹.
- 1.3 The *Wales Spatial Plan (WSP: ref W44), 2004* highlights the importance of the Water Framework Directive and specifies that the “*Water Framework Directive requires us to manage water as a whole, including all the diffuse sources of pollution – especially from agriculture with its effect on water quality. This will have significant impacts, even though our water quality is generally very good by European standards.*” (WSP, 2004, page 23). The WSP does not set out policy relating to water protection or quality and does not set any actions or propositions relating to the water environment.
- 1.4 The *Wales Spatial Plan update, 2008* also emphasise the importance of the Water Framework Directive stating that it “*demands that we look at the water environment as a whole, integrating water quality, quantity and physical habitat with ecological indicators. This holistic approach encompasses rivers, wetlands, lakes, estuaries and our coast and will require working together in partnerships to ensure that the Spatial Plan and other plans and policies contribute to the achievement of the required new environmental standards*” (para 4.4). The WFD does not make policy against which development proposals can be assessed.
- 1.5 The *Environment Strategy for Wales (ESW), 2006* recognises that water is essential for life and that the way in which we use water as a resource and protect its quality is vital. The Environment Strategy is an

¹ Available at
<http://www.defra.gov.uk/environment/quality/water/wfd/documents/riverbasinguidance.pdf>

overarching strategy that sets aims and targets, but does not implement policy relating to water protection or quality.

- 1.6 Planning Policy Wales (paragraph 13.10.3) states that “*where pollution considerations, which may be relevant to a pollution control authorisation or licence or result from the need to comply with any statutory environmental quality standards or objectives, affect the use and development of land they can be material planning considerations. This will include [...] environmental objectives developed as part of the implementation of the European Union’s Water Framework Directive.*”. Further to this, paragraph 13.11 of Planning Policy Wales, 2002 identifies that development plans “are important vehicles for environmental protection and should enable consideration of the effects that proposed developments might have on [air and] water quality.” There is also reference to WFD in TAN15, for example at A5.9. But further to this, PPW has no reference to a policy that would protect and enhance the water environment other than the narrow focus of references to water supply and sewage infrastructure.
- 1.7 It is considered that the objective to improve water quality should be addressed by inclusion of a suitably worded policy in the LDP. This is supported by the PPW Companion Guide which states “In formulating land-use planning policies on air and water quality, PPW advises that local planning authorities take account of the effects of development upon air and water quality, and vice versa” (para 13.9).

2. Water Policy Requirement

- 2.1 With the above legislative context taken into account, it is considered that there has indeed been an oversight and a policy on water quality and protection should be included within the Plan.
- 2.2 The plan contains a key objective relating to water “*Manage, protect and enhance the quality and quantity of the water environment and reduce water consumption*” (key objective 14) but it does not address water quality in any of the policies. Whilst WSP states that water quality in Wales is generally good by European standards, the LDP evidence base identifies particular water quality issues within the County Borough. Mine water discharges are identified as a problem within the County borough. Also identified are issues relating to pollution of water due to direct sewage connections, and the impact of diffuse or intermittent pollution. The classification of river quality, in particular the rivers Ebbw and Sirhowy is identified as an issue. Overall, the evidence base concludes that the rivers within CCBC are currently rated as being at significant risk of failing the objectives set out in the Water Framework Directive.
- 2.3 Further to this, as set out at 2.6, it is considered that national guidance does not adequately cover the issue of water quality and the

requirements to protect the water environment, as required by the WFD.

- 2.4 Planning Policy Wales does however, make reference to the pollution of the water environment and states “*Planning authorities should operate on the basis that the relevant pollutant control regimes will be properly applied and enforced by other agencies*” (para 13.10.2). Whilst EAW has a regulatory role with regards water quality, the planning system has a crucial role in avoiding and managing the risks associated with development, and so not including a policy in this LDP to address the water quality issues in the Borough largely ignores the potential of achieving key objective 14
- 2.5 From a water supply perspective, Dŵr Cymru Welsh Water’s (DCWW) South East Conjunctive Use System (SEWCUS) resource zone provides water to the CCBC area. There are many sources of water used to supply this zone including abstraction from the River Wye (SAC) and the River Usk (SAC). Under the Environment Agency’s Habitats Directive Review of Consents (RoC) for the Wye and Usk, the Environment Agency has concluded that there are risks to the site feature species and their habitats due to the impacts of water abstractions. It is likely that changes to public water supply abstraction licences will be needed to ensure ‘no adverse effect’ on the integrity of these SAC sites. Caerphilly County Borough Council will only be able to carry out a full assessment of how supplying water to new development may impact on the Wye and Usk Special Areas of Conservation (SACs) once DCWW has incorporated the final results of the Environment Agency’s RoC in its water resources management plan (WRMP)², which is currently in draft. EAW advise that this matter should be addressed when the LDP is reviewed. However the reasoned justification for the water protection policy provides assurance that this matter is covered in the interim.
- 2.6 It is considered that there is a legislative requirement to protect the quality of the water environment that is not adequately covered in national planning guidance. Whilst the Deposit LDP made reference to the management, protection and enhancement of the water environment, no policy was written into the Plan.

3. Council Recommendation (as resolved as a focused change at council meeting 1st December 2009).

- 3.1 The officer recommendation, in light of the objection received from EAW at the Deposit LDP stage was to make a focused change (FC03) to include a countywide policy on water protection in the LDP.
- 3.2 The proposed wording of the policy is as follows:

² <http://www.dwrcymru.co.uk/English/Company/Operations/resources/wrmp/popup.asp>

“CWXX – Water Protection Policy

Development proposals will only be permitted where;

- A They do not have an adverse impact upon the water environment and
- B Where they would not pose an unacceptable risk to the quality of controlled waters (including groundwater and surface water).

(Reasoned Justification)

Climate change, increases in populations and changes in lifestyle have all had an impact upon the water environment and the pressures upon it. Climate change will affect the amount of rain that falls, it will impact upon river flows, replenishing of groundwater, the quality of water available and incidents of flooding, particularly localised, flash flooding. The demands and pressures on water resources will also change, with the scale and nature of the problem differing across Wales, as will the approach to dealing with the problems. The approach to the protection of the water environment will need to take into account the quality and quantity of the local water resource, and how this impacts upon the wider environment in terms of preventing further deterioration of aquatic ecosystems, associated habitats, fisheries, promoting the sustainable use of water, and controlling water abstractions.”

4. Agreed Position

- 1) CCBC and EAW agree that this policy is needed in the LDP in view of the legislative requirements, the identified gap in national policy and guidance, in order to address the water issues identified by evidence that are relevant to the Borough, as set out in the Plan’s key objectives.