



Caerphilly County Borough Local Development Plan

Hearing Session 1 Overall Strategy & Policy Matters MATTERS ARISING

Examination 2010

Caerphilly County Borough Council submission

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INTRODUCTION

1.1 This paper has been produced in direct response to issues raised at Hearing Session 1 **Overall Strategy & Policy Matters** held on the 20th April 2010 at the request of the Inspector (Mr Alwyn Nixon).

1.2 The paper addresses:

A. Rewording or amendment of Policies:

- SP7 Planning Obligations;
- SP12 Conservation of Natural Heritage
- CW8 Natural Heritage Protection
- CW9 Trees, Woodland and Hedgerow Protection
- CW22 Locational Constraints - Conversion, Extension and Replacement of Buildings in the Countryside
- FC03 CWXX Water Protection Policy
- NH1 Special Landscape Areas
- NH2 Visually Important Local Landscapes
- NH3 Sites of Importance for Nature Conservation

B. Minor changes and cross referencing throughout the plan

1.3 The changes are indicated in **red** for ease of reference

Section A: Rewording or amendment of Policies

SP7 Planning Obligations

In response to discussions held during Hearing Session 1 the Inspector asked the Council to consider revising policy SP7 to include an additional criterion in the policy in respect of flood mitigation measures. In this context it is suggested that the policy be revised to read:

Planning Obligations

SP7 The Council will seek to secure Planning Obligations (S106 Agreements) where they are necessary to remove obstacles of planned development, meet local needs and make development more sustainable. Such obligations will include:

- A Infrastructure for walking, cycling, public transport, parking**
- B Schools and ancillary facilities**
- C Community Facilities**
- D Strategic highway improvements in the Northern and Southern Connections Corridors**
- E Flood defence measures required to mitigate the risk of flooding**
- F Formal and informal open and leisure space**
- G Affordable housing; and**
- H Other facilities and services considered necessary**

(Key Components Met: 1, 3, 6 & 7)

SP12 Conservation of Natural Heritage

In light of the comments and observations raised by Miller Argent during Hearing Session 1, a number of issues were raised in respect of the internal consistency of the natural heritage policies contained within the plan. At the request of the Inspector, a meeting was held between Miller Argent and CCBC to discuss these points on 11th May 2010, prior to Hearing Session 9: Minerals and Waste.

A statement of common ground has now been prepared and submitted to the Examination (**ED.43**), which seeks to address the objections raised by Miller Argent. As a consequence of this work it is suggested that the Natural Heritage Policies SP12, CW8, NH1, NH2 and NH3 be amended to read:

SP12 Conservation of Natural Heritage

**The Council will protect, conserve, enhance and manage the natural heritage of the County Borough in the consideration of all development proposals within both the rural and built environment.
(key components met 3 & 8)**

1.76 The term *Natural Heritage* covers the geology, geomorphology, biodiversity, landscape and amenity value of the County Borough. It embraces the relationships between landform and landscape, habitats and wildlife and the natural and built environment. It also includes natural features such as trees, woodlands, hedgerows

and rivers. The natural heritage is not confined to the countryside or designated sites and is just as prevalent and important in urban areas. The natural heritage is a positive asset that enriches people's quality of life and promotes the regeneration of areas.

1.77 Almost 80% of Caerphilly County Borough Council is classified as countryside. Whilst change is inevitable and opportunities for growth and development of the Borough need to be provided, respecting the unique and distinctive features or characteristics of the natural heritage of the County Borough is essential in protecting, conserving, enhancing and managing the valuable features in both the natural and built environment.

Natural Heritage Protection

CW8 Development proposals that affect locally designated natural heritage features will only be permitted:

- A Where they conserve and where appropriate enhance the distinctive or characteristic features of the Special Landscape Areas (SLA) or Visually Important Landscape Areas (VILLS).
 - B Within, or in close proximity to sites designated as Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNR), Regionally Important Geological Sites (RIGS), Green Corridors or Local Priority Habitats and Species that either:
 - i Conserve and where appropriate enhance the ecological or geological importance of the designation, or
 - ii Where the need for the development outweighs the ecological importance of the site and, where harm is minimised by mitigation measures and offset as far as practicable by compensation measures designed to ensure there is no reduction in the overall value of the area or feature.
- 2.18 The natural heritage of the County Borough is diverse and contains specific biodiversity protection areas from European to local designations, together with local landscape designations. It is important that these are protected from inappropriate development. This policy test applies to any development proposal that would, or would be likely to, have a detrimental effect upon the distinctive biodiversity, geological or landscape features and characteristics of the County Borough. The level of potential harm will be assessed, taking into account, mitigation, compensatory and restoration measures.
- 2.19 Minerals underlay the majority of the County Borough, and the Council aims to balance the need to conserve the distinctive features and characteristics of the natural heritage with the need to safeguard nationally important mineral resources. Proposals for mineral workings are subject to other policy tests, as set out in Minerals Planning Policy Wales (MPPW), 2000, Minerals Technical Advice Note 1 (Aggregates) (MTAN1) and Minerals Technical Advice Note 2 (Coal) (MTAN2). These will need to be considered in respect of the distinctive features and characteristics of the natural heritage identified within the plan.

SECTION C – AREA SPECIFIC POLICIES

Conservation of Natural Heritage

Special Landscape Areas (SLAs)

NH1 Special Landscape Areas are identified and will be protected at the following locations:

NHxx (to be completed as per the strategy area)

- 3.19 Special Landscape Areas are local non-statutory designations that seek to protect areas that exhibit distinctive landscape, historical, cultural, biodiversity and geological features and characteristics within the County Borough. They are locally important elements of the natural heritage of the rural and urban environments, and provide a living history of the evolution of the area's landscape as well as cultural backdrop and visual setting. The designation of SLA's highlights the holistic consideration of the landscape, with emphasis placed on the 'special' nature of the distinctive landscape features and characteristics in these areas. (LDP Paragraph 3.19 – HOVRA, 3.100 – NCC and 3.190 – SCC).
- 3.20 These areas will be protected from any development that would harm their distinctive features or characteristics. The policy is not designed to preclude development. However, an applicant will need to demonstrate that any development proposal will not have an unacceptable impact on the distinctive features or characteristics associated with the specific Special Landscape Area. (LDP Paragraph 3.20 – HOVRA, 3.101 – NCC and 3.191 – SCC)
- 3.21 LANDMAP is the national information system for taking landscape into account in decision-making. It separates landscape into five aspect areas: geological landscapes, visual and sensory, landscape habitats, cultural landscapes and the historic landscapes. The system allows information to be gathered, organised and evaluated within a nationally consistent data set. All of the Special Landscape Areas have been identified using LANDMAP information and Special Landscape Area designation methodology. This recognises that an SLA may include small parts of the local landscape that do not display the same level of landscape importance. A detailed description of the Special Landscape Area designations can be found in Appendix 1, which provides a breakdown of the distinctive landscape features and characteristics within the SLA. (LDP paragraph 3.21 – HOVRA, 3.102 – NCC and 3.192 – SCC).

Visually Important Local Landscapes (VILLs)

NH2 Visually Important Local Landscapes are identified and will be protected at the following locations:

NH2XX (to be completed as per the strategy area)

- 3.22 Visually Important Local Landscapes (VILLs) are non-statutory designations that seek to protect the distinctive features or characteristics of the visual and sensory landscape of the County Borough and how we perceive and respond to the landscape around us. VILLs have been identified using only the visual

and sensory layer of LANDMAP. (LDP Paragraph 3.22 – HOVRA, 3.103 – NCC and 3.193 – SCC)

- 3.23 Development will only be permitted where it conserves and, where appropriate, enhances the distinctive visual and sensory landscape features or characteristics of the VILL. Development proposals should demonstrate that these features of the visual and sensory LANDMAP aspect layer are conserved and, where appropriate enhanced for the benefit of the visual landscape. A detailed description of the VILL designations can be found in Appendix 2, which provides a breakdown of the distinctive visual and sensory landscape features and characteristics within the VILL. (LDP Paragraph 3.23 – HOVRA, 3.104 – NCC, 3.194 – SCC).

Sites of Importance for Nature Conservation (SINCs)

NH3 Sites of Importance for Nature Conservation are identified and will be protected at the following locations:

NH3XX (To be completed as per the strategy area)

- 3.24 Sites of Importance for Nature Conservation (SINCs) are an important biodiversity resource covering significant areas of priority habitats and species. Designations should be based on objective scientific criteria to accord with the (developing) Wales wide guidelines. This policy applies to all sites that meet the criteria for designation. (LDP Paragraph 3.24 – HOVRA, 3.105 – NCC and 3.195 – SCC).

- 3.25 Development will normally be permitted where it would not cause unacceptable harm to the features of the SINC. Where harm is unavoidable it should be minimised by effective mitigation measures to ensure that there is no reduction in the overall nature conservation value of the area or feature. Where this is not possible, compensation measures designed to conserve, enhance and manage locally distinctive natural habitats and species should be provided, including for example details of restoration and reclamation schemes. A description of the Sites of Importance for Nature Conservation can be found in Appendix 4. (LDP Paragraph 3.26 – HOVRA, 3.107 – NCC and 3.197 – SCC)

CW9 Trees, Woodland and Hedgerow Protection

In response to discussions held during Hearing Session 1 the Inspector asked the Council to reconsider the wording of policy CW9 and its reasoned justification in order to reflect a more balanced and proportionate approach, in particular in respect of criteria b, c and e.

It is proposed that the following amendments to the wording of Policy CW9 are made as follows:

Trees, Woodland and Hedgerow Protection

CW9 Development proposals on sites containing trees, woodlands, hedgerows, ancient woodland and **veteran trees, or which are bordered by one or more **such** trees or hedgerows, will only be permitted provided that:**

A Where arboricultural surveys are required, they are received and approved, and any mitigation, compensation or management requirements are submitted as part of the planning application.

B The root systems will be retained and adequately protected prior to and for the duration of all development activity on site.

Note: CCBC agree that previous criterion B was too onerous, in light of the planning conditions that normally protect new planting for a period of five years once the development has been completed.

C Development proposals have made all reasonable efforts to retain, protect and integrate trees, woodlands or hedgerows within the development site.

Note: One of the primary purposes of the policy is to replace the presumption that a development site is a 'blank canvas', and to ensure that tree retention and protection and additional planting is considered fully at the onset of the development process.

As such, CCBC consider that the onus is on the developer to take a lead in striking a balance between development and the natural heritage features of a site. Where reasonably possible these features should be incorporated into the development proposal to minimise the loss of natural heritage features, to enhance sites, to protect amenity and biodiversity value and to minimise the blanket loss of trees and woodlands, which has been the trend in the past within CCBC.

D Where appropriate, suitable replacements are provided where existing trees, woodlands or hedgerows are removed.

E *In light of the amendment to the proposed policy wording to include reference to veteran trees, it is recommended that criterion E be deleted.*

The associated reasoned justification for Policy CW9 be amended as follows:

2.19 Trees, woodlands and hedgerows make a positive contribution to both the natural and built environment. They enhance the amenity value, character and diversity of the landscape, provide vital habitat for biodiversity and offer substantial environmental benefits such as offsetting of noise and improving air quality. Trees can occupy a substantial part of a development site and because of their potential size can have a major influence on the planning and use of the site. Arboricultural surveys identify, evaluate and propose mitigation on the effects of development on trees. Arboricultural surveys, including topographical surveys, tree survey and categorisation, tree constraints plan, and arboricultural implications assessment provide important information on the quality, quantity of trees and identify, evaluate and recommend mitigation on the potential impacts of the development proposals, including the construction process on existing trees and woodlands, including the root systems.

2.20 All reasonable effort should be taken to protect existing trees, woodlands and hedgerows that have been identified as worthy of retention through the arboricultural survey process. These features, if integrated sensitively and with due care and consideration will make a significant

contribution to the amenity value of the development and protect a valuable natural heritage resource to enhance sites, to protect amenity and biodiversity value and to minimise the blanket loss of trees and woodlands.

2.21 Where the loss of quality trees, woodlands and hedgerows is unavoidable, appropriate suitable replacements will minimise the impact of the loss, which could affect the overall amenity, landscape and biodiversity value of the immediate and wider setting by the Local Planning Authority.

2.22 The requirements to be observed with regards to trees and woodland are detailed in *Supplementary Planning Guidance: Trees and Development – A Guide to incorporating Trees in Proposals for Developing Land*.

CW22 Locational Constraints- Conversion, Extension and Replacement of Buildings in the Countryside

In response to discussions held during Hearing Session 1 the Inspector asked the Council to reconsider the wording of policy CW9 and its reasoned justification to ensure consistency between the policy and the reasoned justification.

(FOCUSED CHANGE – FC 29)

Locational Constraints – Conversion, Extension and Replacement of Buildings in the Countryside

CW 22 The conversion, extension or replacement of a building outside the settlement boundaries will be permitted where:

- A** The proposed **use**, scale, form, siting, design and materials are suitable **within its context**.
- B** A conversion is justified by demonstrating that:
 - i** The building is not makeshift in nature and is of permanent, substantial construction; and
 - ii** The building is structurally sound and capable of conversion or rehabilitation without major alteration or reconstruction;
 - iii** The building is capable of re-use without materially changing its existing character;
 - iv** The development does not result in the domestication of an otherwise rural setting.
- C** Extension is justified by demonstrating that:
 - i** The existing building remains the dominant element;
 - ii** The extension does not result in the loss of undeveloped countryside land or features;
 - iii** The extension does not result in the domestication of an otherwise rural setting;
 - iv** In the case of proposals to extend buildings or land that has previously been extended, the proposal should have regard for the scale and character of the original part of the building or land area.
- D** Replacement is justified by demonstrating that:

- i **The building is structurally unsound and not capable of conversion or rehabilitation without major alteration or reconstruction; and**
- ii **The existing use has not been abandoned;**
- iii **The existing use is no longer suitable or appropriate for the building; and**
- iii **it can be demonstrated that all other appropriate alternatives for re-use have been examined.**

2.41 Many buildings outside of the settlement boundary become redundant and fall into disrepair with many becoming unfit for the purpose they were originally intended. When assessing planning applications for the re-use or adaptation of a building, the primary consideration will be whether the nature and extent of the new use proposed for the building is acceptable in planning terms.

2.42 When permitting development beyond the settlement boundary a careful balance is required to conserve, protect and enhance the rural environment through a considered approach to design including scale, form, siting and the use of materials, all of which should be suitable for the context of the proposed development. Consideration should also be given to the character of the immediate and wider setting of the building.

2.43 Proposals for the conversion of buildings outside of the settlement boundary should respect local building styles and materials and should be sympathetic to the character of the original building and the locality. For conversion to be acceptable the building should be structurally sound and capable of conversion or rehabilitation without major alteration or reconstruction; it should be of permanent and substantial construction and should not result in the domestication of an otherwise rural setting. Buildings that are clearly ruinous or abandoned would not normally be considered suitable for conversion.

2.44 Many buildings beyond the settlement boundary require an extension or alteration to meet the modern day demands placed upon them. Where an extension is proposed it should respect the character, size and scale of the host building, with the host building remaining the dominant element of the overall building. Careful consideration should be given to proposals that would further extend buildings that have previous extensions. It is important that the character of the original host building is not compromised. Proposals should respect the scale of both the host building and its immediate and wider setting and should not lead to an unacceptable loss of undeveloped countryside land or features.

2.45 In order to retain appropriate forms of development in the countryside and avoid their replacement with inappropriate development, replacement buildings will only be permitted where criterion D can be satisfied. This policy is designed to ensure that where buildings are clearly ruinous or abandoned they are not classed as buildings that require re-building; and that where buildings are replaced, the new development is sympathetic to its location in terms of its use and design.

FC03 Water Protection Policy

In response to discussions held during Hearing Session 1 the Inspector asked the Council to consider revising the Water Protection Policy and its reasoned justification

in order to make it less onerous and more locally specific. In this context it is suggested that the policy should be amended to read:

Water Protection Policy

CWXX Development proposals will only be permitted where:

A They do not have an unacceptable 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)

2.50 Whilst the Environment Agency Wales has a regulatory role with regards water quality, the planning system has a crucial role in avoiding and managing the risks associated with development.

2.51 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. This is particularly important in terms of any development proposals that are likely to impact on the rivers Ebbw and Sirhowy.

Section B				
Minor changes and cross referencing throughout the plan				
Policy	Para. No. / page No.	Proposed Change	Reason	Comment
FLOOD RISK				
FC03 Water Protection Policy	Page 70	Insert the word "unacceptable" before the word adverse in Criterion A	To ensure the policy is not unduly onerous	See Section A
FC03 – Reasoned Justification	Page 70			Insert reference to the Sirhowy and Ebbw to make more Caerphilly specific. Include suitable narrative in reasoned justification to give further explanation to Criterion A See Section A
Paragraph 2.31	Page 64	Insert a footnote which cross refers to TAN 15 Flood Risk	To ensure that there is clarity that B2 Industrial sites within Zone C may not be appropriate for the location of highly vulnerable uses such as waste facilities.	

SP7	Page 44	Insert additional criterion in respect of flood mitigation measures	To ensure that developers are aware from the outset that infrastructure improvements in respect of flood defence measures may be sought through planning obligations.	See Section A
KEY DIAGRAM				
Key Diagram	Page 30	Include a footnote on the key diagram, which indicates that each strategy area has its own more detailed diagram. Cross reference to the introduction of Section C, which elaborates on the specific role of centres.	For clarity	Change in light of change in terminology to refer to local centres.
WALES SPATIAL PLAN				
Strategy	Para 1.20	Reference should be made that residential areas are those areas that are defined by settlement boundaries	For clarity	

SP4	Page 42	Reference to Key Settlements should be changed to Local Centres in line with the Wales Spatial Plan	To avoid any confusion with terminology.	All references to Key Settlements throughout the plan and on the Proposals Map will need to be amended accordingly. References to local centres within residential areas will need to be changed to refer to Neighbourhood centres.
SP4	Page 42	Cross refer to Key Diagram	For clarity.	
OTHER STRATEGY POLICIES				
SP10	Page 45/46	Consider deletion of Policy	Reiterates National Policy	Inspector to determine
SP22	Page 52	Consider deletion of Policy	Reiterates National Policy	Inspector to determine
OTHER COUNTY-WIDE POLICIES				
CW7	Page 58	Consider deletion of Policy	Reiterates National Policy	Inspector to determine
SUPPLEMENTARY PLANNING GUIDANCE				
CW26	Page 70	Delete policy	This is an intention not a land use policy.	

	Para 0.36	The first two sentences of Paragraph 0.36 should be amended to read "Supplementary Planning Guidance (SPG) will be produced and will be the subject of appropriate public consultation. SPG does not form part of the LDP ..."	To provide further clarification on SPG due to the deletion of Policy CW26.	
NATURAL HERITAGE				
CW8 criterion B clause ii	Page 58/59	Consider revision of words "same standard and size"	Goes well beyond requirements of national guidance. Revised wording to provide greater clarity and consistency.	Liaise with ecologist regarding suitable form of words. See Section A
NH1	Para 3.20 Page 75	Need to revisit the reasoned justification to be consistent with the requirements of policy CW8.	At present the RJ is written like a policy and it is at odds with the county-wide policy.	Cross reference to three strategy areas to ensure consistency. See Section A
NH2	Para 3.23 Page 76	Need to revisit the reasoned justification to be consistent with the requirements of policy CW8.	At present the RJ is written like a policy and it is at odds with the county-wide policy.	Cross reference to three strategy areas to ensure consistency. See Section A

CW9 criterion B	Page 59	Consider rewording to read: " The trees, woodland and/or hedgerows and their root systems which are to be retained are adequately protected prior to and during the development"	To ensure the policy is workable.	The developer will have no control over the protection of the trees after completion and sale. See Section A
CW9 criterion D	Page 59	Consider adding: "or on land adjacent to the development within the control of the developer"	To ensure the policy is workable.	The key is to ensure sufficient mitigation takes place. The replacement trees need not necessarily be within the development site itself. See Section A
CW9 criterion E	Page 59	Clarify what is meant by 'Ancient trees' (should the focus be on age rather than contribution to amenity?)	To ensure the policy is workable.	See Section A
CW9 reasoned justification	Page 60	Revisit the reasoned justification to be more proportionate.	To ensure the policy is workable.	Particular concern raised in respect of terminology such as "incredibly vulnerable" . Para 2.21 should indicate that the removal of trees within the context of the development would need to be justified by virtue of the need for the level of development proposed. See Section A

BUILDINGS IN THE COUNTRYSIDE				
CW22 criterion A	Page 67	Consider rewording to delete the words “ for a rural location” and replace with “to its context”.	For clarity.	See Section A
CW22	Para 2.41	Consider rewording last sentence. The term “from becoming sterilised” should be revisited.	For clarity.	See Section A