



## Caerphilly Local Development Plan

### Hearing Session 11: Outstanding Matters

#### Statement on behalf of Miller Argent (South Wales) Limited

## 5 Matters arising from Session 9: Minerals and Waste

### Cwmbargoed Washery site

***Is a more rigorous wording to proposed policy MU 1, its supporting text and Appendix 6 required, in order to secure consistency with the wider sustainability-related principles of the Plan?***

1. Miller Argent note the Inspector's proposed renumbering of this policy to MW 1 and revised wording. They have the following comments:  
***MW 1***
2. Miller Argent acknowledges that the proposed policy and allocation MW 1 relates to the suitability of the site for future rail-related minerals handling and despatch and future rail transport-related waste management facilities. However, the policy wording refers only to rail or rail transport related uses and Miller Argent is concerned that the existing permitted and long established uses at the site for the import and export by road of coals other than those from the Ffos-y-fran Land Reclamation Scheme is not sufficiently reflected.
3. It is likely that future developments at the site will be associated with those permitted road haulage activities. As coal is a mineral, Miller Argent are concerned that the policy as drafted could be interpreted in a way that would be detrimental to the existing activities at the site. However, they acknowledge that the purpose and intent of the proposed policy is not for that purpose.
4. It is therefore suggested that, to avoid future misunderstandings about the application of this policy, the existing uses at the site should be reflected in the policy wording with an appropriate explanation and/or expansion of the matter in the supporting text.
5. References to 'Cwmbargoed Washery Site' or 'Cwmbargoed Washery' should be replaced with 'Cwmbargoed Disposal Point' or if the Inspector wishes it to be descriptive rather than being its official title, then 'Cwmbargoed Coal Preparation and Dispatch Facility'.

6. Similarly 'washing' should be replaced by 'preparation'.
7. 'Ffos y Fran site' should be replaced by 'Ffos-y-fran Land Reclamation Scheme'.
8. Miller Argent stress that the statement in the Inspector's suggested para 3.27 is factual at present as only Ffos-y-fran Land Reclamation Scheme coals are 'currently' being processed at the site, but coal from other sources has been and will be processed and dispatched from there in the future. A statement to this effect needs to be included to reflect the introduction of other coals in the future - Nant Llesg being a prime possibility, as well as from other small mines in the local area.

### **Appendix 6**

9. Miller Argent acknowledge the Council's suggested consequential revisions to Appendix 6 of the LDP as set out at Appendix 4 of their Examination Statement ES 11.1. The matters referred to at para 2 above similarly apply to the revised appendix and the corresponding changes would also need to be applied to Appendix 6.
10. References to 'Cwmbargoed Washery Site', 'Cwmbargoed Washery', and 'Ffos y Fran Coal Recovery operation' in the revised Appendix 6 should be reworded as described at paras 2 and 5 above.
11. Miller Argent feels that the sentence in Appendix 6 stating: *"The coal washery has its own railhead and other associated industrial / mineral land uses have been accommodated in the past"* suggests that the site is no longer in current use and, when read in conjunction with the often misinterpreted and misused term "brownfield site" tends to give the reader entirely the wrong impression. It is stressed that the site is fully operational and the proposed allocation must not inadvertently suggest otherwise. It is important that the Council's proposal to allocate the whole operational area of the disposal point within its administrative area can only be acceptable to Miller Argent if it doesn't prejudice future development associated with the existing uses. It is therefore important to Miller Argent that the continuation of the existing uses on the site is made abundantly clear to the reader.
12. Miller Argent would therefore be pleased to assist the Council in revising Appendix 6 to ensure accuracy and consistency with permitted uses.

### **Minerals development policy and related SLA and VILL designation matters**

#### ***Are further changes to the Plan text required in relation to consideration of minerals development, in order to provide sufficient clarity in this respect?***

13. Miller Argent's position is that absolute clarity is required in the Plan text to capture the Council's intentions, considered through the hearings process, and to provide a clear basis for future development control.
14. This is important because the SLA and VILL policies are not merely instruments for the development control of restoration (ES11.1 para 4.6) but, if adopted, will be taken into account in the balance between national need for coal and the potential effects on the natural heritage; it is therefore essential that the Plan text is clear and that the designations are fully justified.

15. These issues should be resolved at the EIP stage, with the benefit of the information available, through consultation and with the Inspector's input; their resolution is too important to be postponed until the planning application stage (ES11.1 para 4.14).

***Paras 0.44 to 0.47***

16. Miller Argent note the Inspector's comments in Annex 2 regarding the changes to paragraphs 0.44 - 0.47. They suggest that the heading '**Minerals Planning Policy**' could be retained if paragraphs 0.46 and 0.47 were reversed in order. This would bring the current 0.47, which deals with minerals, under the heading of '**Minerals Planning Policy**' as paragraph 0.46, whilst the current 0.46 would continue as new 0.47 under its own heading of '**Repetition of National Guidance**'. Paragraph x.xx would also follow on more logically from the new 0.47
17. Miller Argent accept, subject to these changes, the Inspector's view that our proposed Policy SP9A is superfluous.
18. Miller Argent have no issue with the Inspector's suggested reliance on CW17 for minerals development outside settlement boundaries or his suggested supporting text.
19. Miller Argent support the identification of economically workable mineral resources in line with MPPW and would welcome the identification of Nant Llesg as an economically workable coal resource in the supporting text to CW17.
20. Miller Argent see no benefit in an SPG in respect of coal. It is our view that the LDP should provide clear guidance on development control matters now. It should not rely on future work to make it 'complete'. The amount of work required to include all the relevant issues in the Plan is minimal and would not cause any significant delay. Addressing the issues now has the benefit of contributions from all the relevant parties and a forum (through the Hearings) for consultation / debate with input from the Inspector.
21. In the light of the discussions at Hearing Session 9, the Inspector's Issues & Matters Agenda for Hearing Session 11 (in particular Annex 2), and the Council's submitted Matters Arising document (MA 9.1), Miller Argent consider that further changes are necessary to the plan in order to provide the clarity needed to ensure that it provides a sound basis for development control decisions in relation to minerals.
22. On the basis of the changes to the plan agreed to date, and, taking account of the current position, we propose the further changes set out below to ensure that the plan is sound.

***Policy CW8 and Reasoned Justification***

23. In the light of the Hearing Session 11 - Issues & Matters Agenda (Annex 2) some further revisions to Policy CW8A are required to reflect the position that SLAs and VILLs may include pockets of lower landscape quality which are only included so as to achieve comprehensive and coherent areas, and to recognise

the localised landscape enhancement function.. We propose that CW8A should be revised to reflect this as follows:

**CW8**

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

- “A Where they either:**
- i conserve and where appropriate enhance the distinctive or characteristic features of the Special Landscape Areas (SLA) or Visually Important Landscape Areas (VILLS); or**
  - ii enhance areas of lower landscape quality within the SLA or VILL which do not contain distinctive or characteristic features.**

24. We also propose adding a new para 2.19 as follows:

*“SLAs and VILLS are not exclusively based on distinctive locally important elements of the natural heritage but may include pockets of lower landscape quality which are only included so as to achieve comprehensive and coherent areas. Development proposals which seek to enhance the quality of such areas will be considered favourably.”*

***Policy NH1 and Reasoned Justification***

25. Para 3.19 needs to be further revised to reflect the position that SLAs are not exclusively based on “...*locally important elements of the natural heritage...*” but may include pockets of lower landscape quality which are only included so as to achieve comprehensive and coherent areas.
26. Para 3.20 needs to be further revised to reflect the position that not only will these areas “...*be protected from any development that would harm their distinctive features or characteristics...*” but some areas may be included because they would benefit from landscape enhancement.
27. As stated in ED43 at para 3.1 Miller Argent consider that a summary of the key landscape features should be provided in a summary box in the SLA and VILL Appendices in order to clarify what makes these areas special and what distinctive features and characteristics the policy seeks to conserve. Whilst the Council does not object in principle to this suggestion, they consider that the general characteristics of the landscape designations are currently addressed under the ‘Need’ heading and the primary landscape qualities and features. The Council have indicated that they are willing to review the structure of the appendices during the review of the plan, and make necessary amendments at that stage in light of other comments received and the ability to implement and interpret the information in the appendices.
28. However, given that it is the case that areas of lower quality landscape may be included, and that localized landscape enhancement is a function of these areas, then the need for greater detail in the descriptions of the SLAs becomes even more important to provide clarity, and to recognise that in some areas beneficial change rather than conservation of the existing landscape is a key consideration.
29. Miller Argent thus wish to restate their view that in order to provide the clarity required by MPPW and MTAN2 regarding the development control criteria

against which proposals for mineral working will be assessed, it is essential that the distinctive visual and sensory, historical, cultural, biodiversity and geological features of the SLAs which are to be protected are identified in Appendix 1, and also that those areas or features which are of lower landscape quality, and areas which would benefit from localized landscape enhancement are clearly identified. The revised Appendix 1 should be circulated for public consultation as part of the EiP process.

***Policy NH2 and Reasoned Justification***

30. As for the SLAs referred to above, para 3.22 needs to be revised to reflect the position that VILLs may include pockets of lower landscape quality which are only included so as to achieve comprehensive and coherent areas. Thus in parts of the areas protection of distinctive features or characteristics of the visual and sensory landscape may not be the prime concern.
31. Para 3.23 already recognises that there may be opportunities to enhance the landscape of the VILL.
32. As referred to in the context of the SLAs above, Miller Argent consider that a summary of the key landscape features should be provided in a summary box in the VILL Appendix in order to clarify what makes these areas special and what distinctive features and characteristics the policy seeks to conserve.
33. As for SLAs, there is a need for greater detail in the descriptions of the VILLs in Appendix 2 to provide clarity as to what are the distinctive visual and sensory landscape features and characteristics within the VILL, and to identify areas where there would be opportunities for beneficial change rather than protection of the existing landscape. Again the revised Appendix 2 should be circulated for public consultation as part of EiP process.

***Are changes to the Proposals Map needed in relation to the boundaries of SLA NH 1.1 and VILL NH 2.1, in order to provide consistency and coherence in this respect?***

34. Whilst consistency and coherence are important tests of soundness the Plan policies should also be supported by 'robust and credible' evidence' (Test CE2) to provide a 'robust and consistent framework for considering planning applications' (Test CE4).
35. The Council accept Miller Argent's evidence that the Nant Llesg area does not meet the criteria for SLA designation but seek to continue to include it within the SLA on the secondary grounds of a) coherence, and b) enhancement of low quality areas. This approach significantly devalues the aim of the policy to protect landscapes of local importance and, if adopted consistently, would lead to the re-appraisal and designation of other areas within the County.
36. The Council's approach appears to be driven by expediency rather than sound planning practice in order to avoid a proper county-wide study to implement their own methodology at this late stage in the EiP (ES11.1 para 4.14).
37. Put simply it is being suggested that the Plan can be wrong as long as it is consistently wrong; 'consistency' and 'coherence' are being used to overcome

- the fact that the evidence base is not robust and credible, leading to policies that do not provide a robust basis for considering planning applications without a further stage of interpretation.
38. The Plan should provide a sound basis for development control purposes on adoption and should not rely on future reviews and/or SPG to achieve clarity.
  39. Miller Argent note from the Inspector's Annex 2 that following the discussion at Hearing Session 9 he confirms his concern at the robustness of the evidence for the boundaries defining the southern limit of SLA NH 1.1 and the northern limit of VILL NH 2.1 in the Nant Llesg Area. He expresses particular concern about the apparent lack of ground truthing of the SLA boundary and the absence of clearly defined boundaries to the SLA and VILL in this location.
  40. The Council in their Statement (ES11.1) at paras 4.4-4.6 confirm that these boundaries are incorrect, and that ground truthing in this area was not carried out.
  41. Miller Argent are pleased to note that the Inspector agrees that further detailed consideration is required so that clearly identifiable boundaries to the SLA and VILL can be included as further changes to the Proposals Map.
  42. The Inspector is already aware of our view on the locations of fully justifiable and defensible boundaries for the SLA and VILL in this area (shown on Figure 8 of our Supplementary Statement - ES9.2.a), and the evidence supporting these boundaries which is also set out in detail in our submissions.
  43. Whilst Miller Argent agree with the Council (ES11.1 para 4.6) that the national need for coal would be of sufficient weight to override local landscape designations in consideration of a planning application, we do not agree that this means that detailed consideration of the extent of the SLA and VILL in this area is not necessary. Such detailed consideration should be based on the actual landscape value of the land.
  44. We agree that the presence of Nant Llesg is not a significant conflict, and our view is that it should not be a relevant consideration in determining whether or not the land is designated. Whilst we agree that in cases where land is subject to designation, then the design and implementation of restoration should take into account the reasons for such designation, we do not agree with the Council's suggestion that designation should have the specific purpose of giving the MPA more opportunity to implement and request a suitable restoration scheme for the site.
  45. Regardless of whether or not the land is subject to designation, current Sustainability Appraisal and Environmental Impact Assessment requirements to which any proposal for mineral working would be subject would ensure a high standard of restoration regardless of whether the land is subject to designation.
  46. We do not dispute the Council's selection of Areas of Search for SLAs and VILLs based on the LANDMAP Aspect Areas (set out in the TACP studies - SB47 and SB48) and which is described in ES11.1 paras 4.7 & 4.8. Our difficulty lies with the subsequent definition of boundaries and we note that the Council's proposed amendments to the boundaries of SLA NH1.1 and VILL NH2.1 are similarly based only on consideration of the evaluation at the level of the LANDMAP Aspect Areas.

47. Miller Argent's evidence supporting the boundaries which we propose is set out in detail in our submissions. This includes consideration of Historic Landscape value which the Inspector notes was not included in the TACP assessment (see paras 26 to 30 and Figure 3 of our Supplementary Statement - ES9.2.a).
48. We note that the Council does not dispute this evidence (ES11.1 para 4.14). They recognise the work that we have undertaken and acknowledge that it provides detailed and significant analysis of the LANDMAP data. It is in our view no more than the Council should have themselves done in order to properly define the boundaries of the SLAs and VILLs in accordance with the methodologies referred to above. The Council state that they are not:  
*"...in a position to undertake this level of analysis on all of the SLA's and VILL's across the county borough due to the size and nature of the designations, time limitations, lack of resources and access to more detailed information."*
49. It is of concern that the Council have developed methodologies for the identification and definition of SLAs and VILLs and then to failed to provide the resources to undertake the task in accordance with those methodologies.
50. We first indicated our concerns regarding the boundaries of SLA NH1.1 and VILL NH2.1 in our representations on the Deposit Draft LDP dated 26th November 2008. There has thus been more than adequate time for the Council to give this matter the full consideration which it deserves.
51. The Council now propose that the boundary of SLA NH1.1 should be extended southwards to the road that runs north of Fochriw, and the boundary of VILL NH2.1 should be revised accordingly. They seek to justify this only in terms of the LANDMAP values for these areas, which is not in accordance with the methodologies. Whilst they do not dispute our more detailed evidence, they simply ignore it as being inconsistent with the *"...overall broad assessment adopted by the LPA..."* which as we have explained and demonstrated is clearly insufficient for the definition of defensible boundaries.
52. The Council describe our approach as subjective (ES11.1 para 4.12), which we wholly refute. We have carried out an objective analysis of the LANDMAP data which the Council acknowledge is detailed and significant. It conforms to the Council's methodologies (referred to above). It is not consistent with the approach which the Council have undertaken only because the Council have not themselves carried out the task in accordance with those methodologies.
53. It must also be appreciated that, whilst the data gathering stage for the LANDMAP Aspect Layers is objective, the process of evaluation, both for the various attributes of the individual Aspect Areas, and for the overall evaluation of each Aspect Area, which are then combined to provide an overall assessment of landscape quality, is entirely subjective.
54. We agree with the Council that the boundary of an SLA should (ES11.1 para 4.13):  
*"...include whole landscape units, be based upon definable, enduring features, and consider future development proposals close to proposed SLA's..."*
55. However we wholly disagree with the Council's view that the area for inclusion within an SLA extending from north of the Head of the Valleys Road down to the road north of Fochriw constitutes a coherent and whole landscape unit and this is

clearly demonstrated by our detailed submissions. Our Supplementary Statement (ES9.2.a) clearly demonstrates the contrast between the character of the land north of the Heads of the Valleys Road and the extensive area to the south extending to Rhaslas Pond. The following table summarises these differences based on the LANDMAP Aspect Layers which are analysed in our Figures 1 to 7 and which are not disputed by the Council.

LANDMAP Aspect Layer	Main Characteristics	
	North of Heads of the Valleys	South of the Heads of the Valleys
Geological Landscape	Millstone Grit Group (Namurian Series)	Coal Measures
Landscape Habitats	Acid grassland and heath of high nature conservation value	Improved grassland of low nature conservation value
Historic Landscape	Unenclosed upland moor with limited encroachment by industrial extractive activity on the southern periphery. Common Land	Predominantly enclosed agricultural landscape. Extensive opencast mining and restored land has obliterated the historic landscape over much of the area. Part Common Land
Visual and Sensory	Heads of the Valleys Road is clear southern boundary	Heads of the Valleys Road is clear northern boundary
Cultural Landscape	Special Landscape Area Extensive SINC	Some areas of SINC

56. It is clear that the areas of land to the north and south of the Heads of the Valleys Road, based on the LANDMAP information, are distinct landscape units. An SLA which extended in the way the Council now propose would not be based on a coherent and whole landscape unit. The Heads of the Valleys Road forms a clear, justified and defensible southern boundary for the SLA.
57. We acknowledge the Inspector's concerns regarding the lack of consideration of the Historic Landscape layer at the Council's Stage 2 of the SLA process, but in the specific case of Nant Llesg it is our view that the more detailed evidence that we have provided fulfils the requirements of Stage 3 in this area irrespective of the incompleteness of Stage 2. However, if the Inspector is of the view that the Council now revisit Stage 2 and introduce the Historic Landscape layer to the Stage 2 evaluation, then it is our clear view that, to ensure consistency, this would need to be done for the whole County Borough and not just for the area of Nant Llesg.



58. The Inspector is aware that Miller Argent has previously invited the Council to revise the boundaries of SLA NH1.1 and VILL NH2.1, and we now confirm our view that the boundaries on our Figure 8:
- unlike the Council's proposed boundaries are supported by the evidence;
  - are well defined and defensible; and
  - in these respects make the plan sound.
59. We respectfully invite the Inspector to recognise the weight and robustness of our evidence, the basis of which is not disputed by the Council, by accepting these revised boundaries for SLA NH 1.1 and VILL NH 2.1 as further changes to the Proposals Map.
60. If this is perceived to introduce inconsistency into the Plan we recommend that this is resolved through the completion of the Council's evidence base rather than accepting an evidence base that is clearly not robust enough to provide clear guidance for development control within the Plan.