



Caerphilly County Borough
Local Development Plan

Hearing Session 9
Minerals & Waste
MATTERS ARISING

Examination 2010

Caerphilly County Borough Council submission

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1. INTRODUCTION

- 1.1 This note has been produced in direct response to issues raised at Hearing Session 9 **Minerals & Waste** held on the 25th May 2010 at the request of the Inspector (Mr Alwyn Nixon).

The note:

- A. Considers an appropriate amendment to ***National Regional and Local Context*** paragraphs 0.44 to 0.45 to provide explicit reference to the approach of the Council as far as the reliance on National Guidance in respect of minerals is concerned.
 - B. Provides a statement within the plan concerning the Council's strategy in respect of inactive quarry sites.
 - C. Amend Policy MN1 to include both dormant and inactive quarry sites.
- 1.2 In addition the council needs to
- Provide the Inspector with the errata sheet in respect of AFC54.
 - Amend the proposals map to identify buffer zones around both dormant and inactive quarries.
 - Provide a buffer zone around Ffos y Fran as it relates to Caerphilly CB.
 - Provide the Inspector with a copy of the SA/SEA Assessment of Cwmbargoed Washery as it relates to a mixed-use allocation.
 - Provide the Inspector with a tracked change document to accompany ED.43 – Statement of Common Ground – Natural Heritage Policy Wording

2. **National Regional and Local Context** paragraphs 0.44 to 0.45
- 2.1 During Hearing Session 9 representations were heard from Miller Argent and Geddes Consulting concerning the need for a specific policy in respect of Minerals and Energy from Minerals exploitation. The Council's position in respect of this issue is clearly set out in **SB61**: Council Report on Deposit and Alternative Sites Consultations- Volume 5.
- 2.2 Further to discussions held during the Examination the Council sees merit in amending paragraph 0.44 and 0.45 of the plan to make explicit reference to the approach the Council is taking in terms of its reliance on national guidance in respect of minerals as follows:

“National Planning Guidance

0.44 In producing the LDP, the Council has had regard to national planning policies. The Assembly Government's national land use planning policies are set out in Planning Policy Wales, Circulars and Ministerial Interim Planning Policy Statements (MIPPS) supplemented by Technical Advice Notes (TANs).

Minerals Planning Policy

0.45 Mineral Planning Policy Wales (MPPW) sets out the land use planning policy of the Assembly Government in relation to mineral extraction and related development in Wales, which includes all minerals and substances (including onshore oil, gas and coal bed methane) in, on or under land extracted either by underground or surface working. MPPW is supplemented by Mineral Technical Advice Notes (MTANs) and Ministerial Interim Minerals Planning Policy Statements (MIMPPS).

Repetition of National Guidance

0.46 In accordance with guidance contained in LDP Wales, LDPs should have regard to national planning policies, but they should not repeat them. The LDP should therefore be considered in conjunction with the Planning Policy Wales Companion Guide, which identifies those areas where clear statements of national development control policy should not need to be repeated as local policies in the LDP. It should be noted therefore that the LDP only provides the policy framework for issues of a locally distinct nature. **Development Proposals that do not present specific locally distinct issues will be assessed in accordance with the requirements of National Planning Policy.**

0.47 Caerphilly County Borough Council is the Mineral Planning Authority with responsibility for planning control over minerals exploration and working within the county borough. There is not a Companion Guide in terms of Minerals Planning Policy Wales. However, the Council has taken the decision that on minerals issues, national policy and guidance is sufficiently clear **and therefore will be**

relied upon in the determination of planning applications in relation to mineral extraction and related development.

x.xx National policy and guidance, taken together with the policies in the LDP set out the planning framework for Caerphilly County Borough. It is important to remember that policies are interrelated and must be read together to understand their combined effect upon a planning proposal.”

Note: the numbering of the plan will change as a result.

- 2.3 The proposed changes outlined in the preceding paragraphs have been the subject of consultation between the Council, Miller Argent (represented by Roger Leeke) and Centrica (represented by Geddes Consulting).**
- 2.4 Miller Argent and Centrica also proposed a Policy Statement for inclusion within the plan as follows:

“POLICY STATEMENT

Minerals Development

SP9A Proposals for mineral exploration, extraction and related development, including those for onshore oil & gas and coal bed methane, shall be determined in accordance with national policy and guidance.

1.69 Caerphilly County Borough Council is the Mineral Planning Authority with responsibility for planning control over minerals exploration and working within the county borough. The Council has taken the decision that on minerals issues, national policy and guidance is sufficiently clear and therefore will be relied upon in the determination of planning applications in relation to mineral extraction and related development.

1.70 Operations associated with onshore oil & gas exploration and development, including coal bed methane, are significantly different in physical terms and associated impacts compared to other minerals. Onshore oil & gas exploration and development can only be developed in areas within Caerphilly County licensed by the UK Government, known as Petroleum Exploration and Development Licenses (PEDLs). PEDLs 221 and 223 restrict onshore oil & gas operations to these areas (as shown on the Proposals Map). These PEDLs extend into the neighbouring county boroughs of Merthyr Tydfil and Rhondda Cynon Taff. Within these PEDL areas, the Welsh Assembly Government expects authorities to show areas where operations would be acceptable.”

- 2.5 The Council remains of the view that with the proposed amendments to paragraphs 0.44 and 0.45 the inclusion of the policy statement sought by the representors is not necessary. Furthermore the wording proposed in the Policy Statement is a statement of intent that repeats the proposed amendments to paragraphs 0.44 and 0.45 and therefore is inappropriate for inclusion as it is not a land-use policy.
- 2.6 Finally, at the hearing session there was a discussion that in order to facilitate the provision of any subsequent Supplementary Planning Guidance, there should be at least one policy referring to Minerals Development within the plan. In response, it should be noted that Policy SP9 provides for the safeguarding of minerals whilst **Policy CW17** allows for the winning and working of minerals outside settlement boundaries (where proposals comply with all relevant planning policies and development control considerations). The Council considers that Policy CW17 provides the necessary policy basis to facilitate any subsequent SPG.

3. Strategy in respect of Inactive Quarry sites

3.1 During Hearing Session 2 the Assembly Government indicated that in order for the LDP to satisfactorily translate Minerals Planning Policy Guidance to the local level, the LDP should indicate the Council's strategy for dealing with Inactive Quarry sites. To this end it is suggested that two additional paragraphs be inserted into the LDP after Policy CW25 and paragraph 2.48 as follows:

"In line with national guidance, buffer zones have been delineated around active, inactive and dormant quarry sites. In relation to active and inactive sites, the buffer zones are drawn from the outer edge of the permission boundary. The extent of the buffer zone will reflect the known effects of mineral working at the site and may exceed the minimum distances set out in MPPW, MTAN1 and MTAN2. For dormant sites, where there is no experience of the impact of mineral extraction operations, the minimum distances set out in guidance will apply.

Whilst dormant sites retain permission, full modern conditions would be applied to the extant permission in accordance with national guidance prior to any working recommencing on site. National guidance also recognises the importance of determining the future use of dormant and inactive sites to give certainty to local communities that may be affected by future mineral operations. Having regard to this, the council will continue to review, on an annual basis, those sites that have not worked to any substantial extent in the preceding two years and will consider an appropriate strategy for the future use and restoration of those sites, which may include Modification, Suspension, Discontinuance, Revocation or Prohibition Orders where appropriate."

4. Amend Policy MN1 to include both dormant and inactive quarry sites.

The Assembly Government also indicated that in order for the LDP to satisfactorily translate Minerals Planning Policy Guidance to the local level, the LDP should also identify within the plan, buffer zones in respect of inactive and dormant quarry sites. In order to comply with this requirement the following inclusions are proposed (indicated in **red**).

Quarry Buffer Zones – Northern Connections Corridor

MN1 Buffer Zones are identified around the following quarries:

- MN1.1 Bryn Quarry - Active**
- MN1.2 Hafod Fach Quarry - Active**
- MN1.3 Gelligaer Quarry – Active**
- MN1.x Caerllwyn Quarry – Dormant**
- MN1.xx Darren Felin Farm Gravel Pit - Dormant**

Quarry Buffer Zones – Southern Connections Corridor

MN1 Buffer Zones are identified around the following quarries:

- MN1.4 Machen Quarry – Active**
- MN1.5 Cefn Onn Quarry – Dormant**
- MN1.6 Cwmleyshon Quarry – Inactive**
- MN1.7 Blaengwynlais Quarry – Inactive**
- MN1.xxx Pontymister Quarry – Dormant**

Corresponding amendments to the Proposals Map will need to be made. Appendix 1 provides the buffer zones to be included in respect of the site not previously identified in the plan.

As part of Miller Argent’s Examination Evidence it was brought to the attention of the Council that a Coal Buffer Zone should extend into the County Borough from Merthyr Tydfil in respect of the Ffos Y Fran Open Cast Coal Site. The Council acknowledges this oversight and therefore a new policy will need to be included with Section C – Area Specific Policies HOVRA as follows:

“Coal Buffer Zone –Heads of the Valleys Regeneration Area

MNX A 500m Buffer zone is identified around the Ffos Y Fran Open Cast Coal Site.

The development restrictions associated with this zone are described in Policy CW25 in section two of the Plan.”

As a consequence of this inclusion, the title of Policy CW25 will also need to be amended to refer to Mineral Buffer Zones as follows:

“Locational Constraints – Mineral Buffer Zones”

Corresponding amendments to the Proposals Map will need to be made. Appendix 2 provides the buffer zones to be included in respect of the site not previously identified in the plan.

5. SA/SEA Assessment of Cwmbargoed Washery

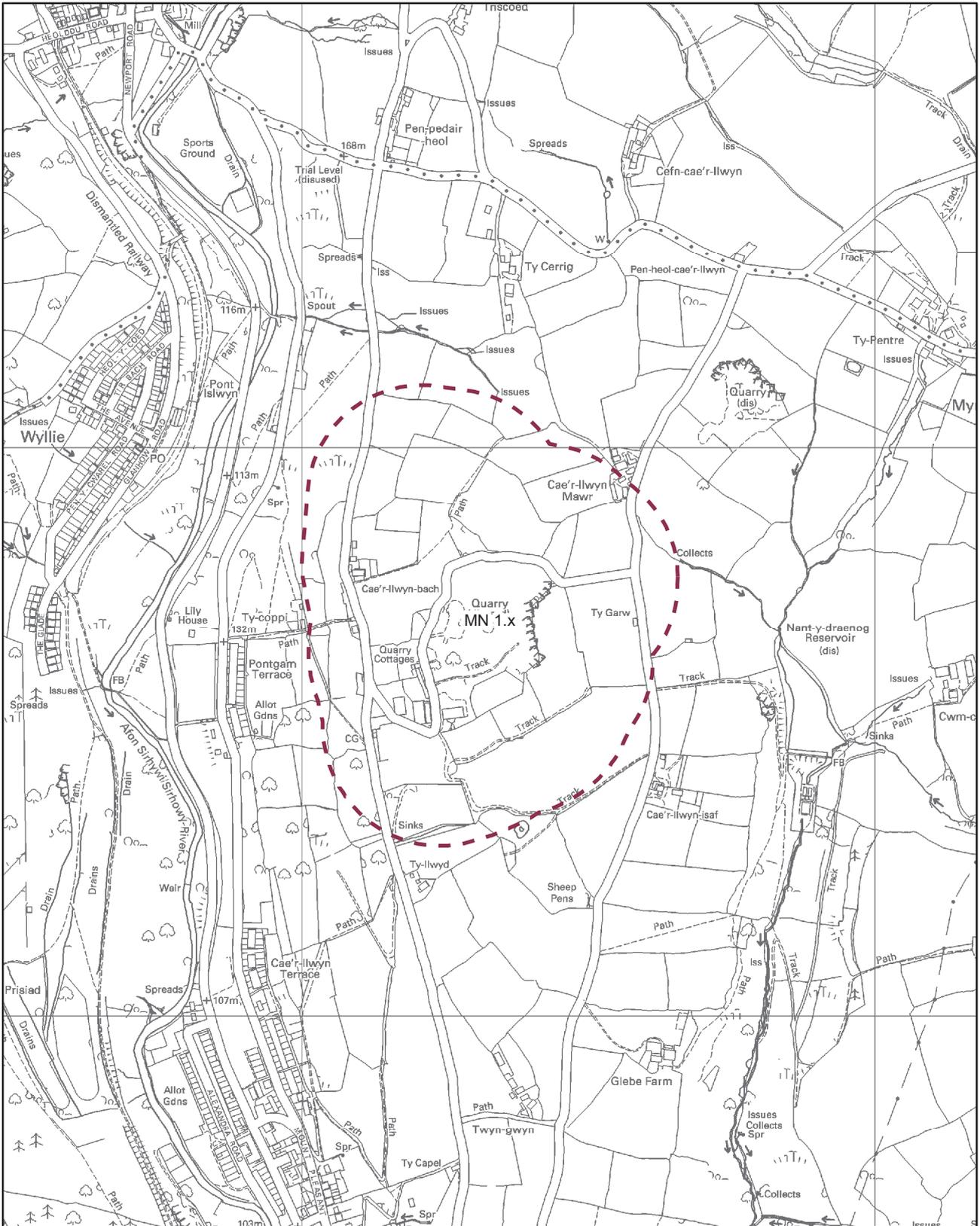
Appendix 3 provides the SA/SEA for the Cwmbargoed Site if the site is to be included as a mixed-use site comprising waste and employment use.

APPENDICES

Appendix 1 - Quarry Buffer Zones for inclusion on the Proposals Map

MN 1.x - Caerllwyn Quarry Buffer Zone

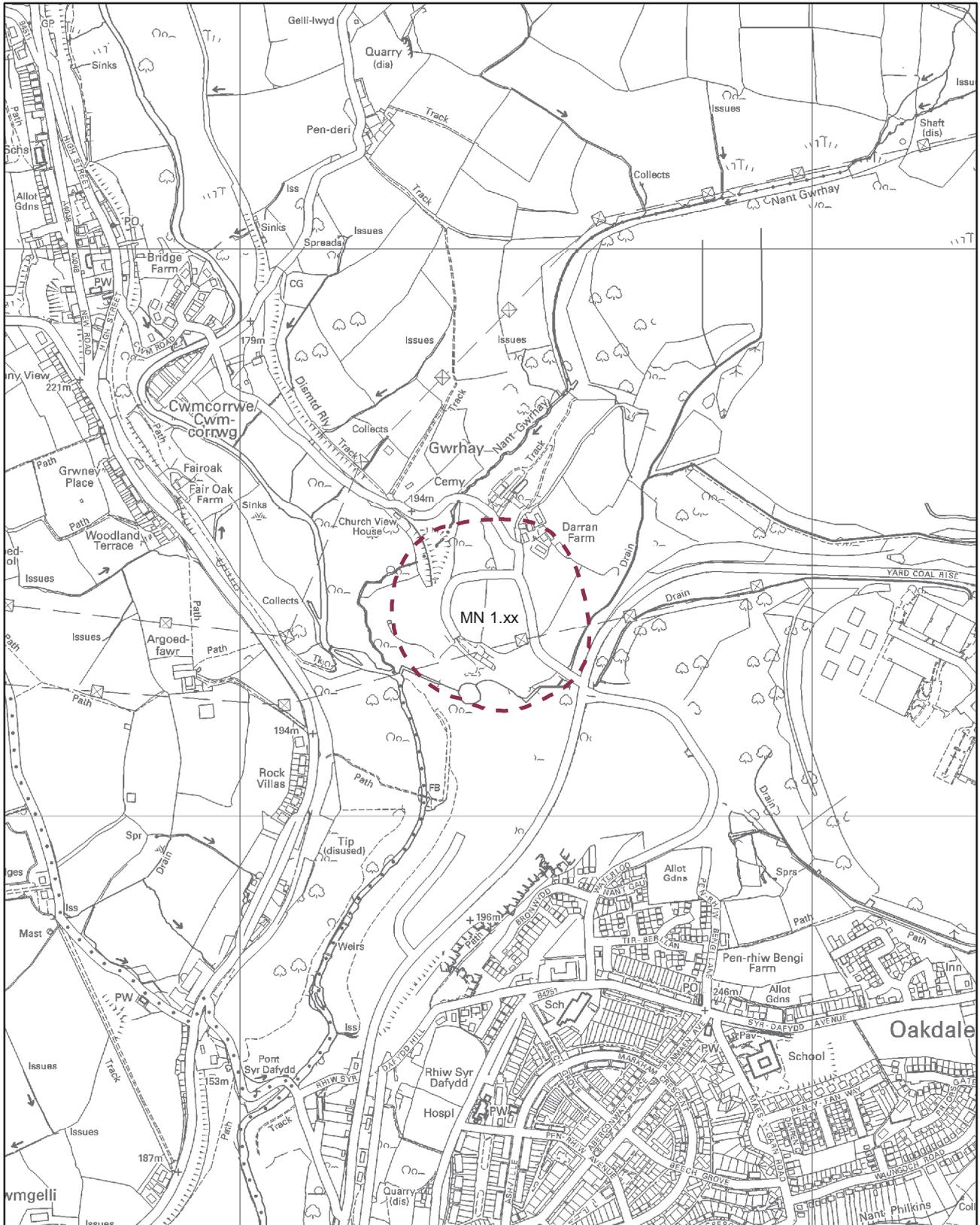
1:10,000



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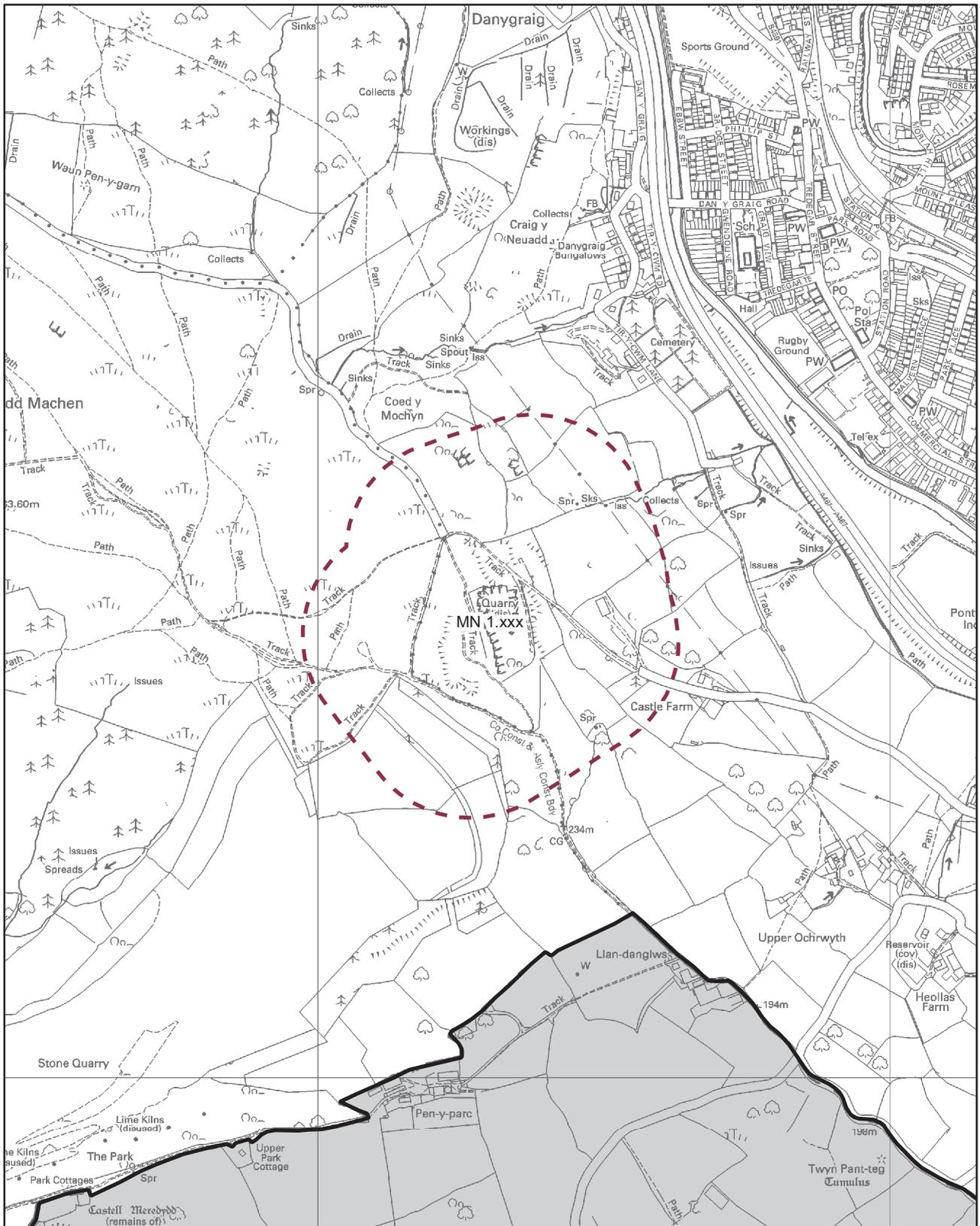
Atgynhychwyd o fapiad yr Arolwg Ordnans gyda chaniatad rheolwr Llyfrfa ei Mawrhydi hawlfraint y Goron. Mae atgynhychu heb awdurdod yn torri hawlfraint y Goron. Gall hyn arwain at erlyniad neu achos sifil. Cyngor Bwrdeistref Sirol Caerffili, 100025372, 2010.

MN 1.xx - Darren Felin Farm Gravel Pit Quarry Buffer Zone 1:10,000



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Atgynhychwyd o fapiad yr Arolwg Ordnans gyda chaniatad rheolwr Llyfrfa ei Mawrhydi hawlfraint y Goron. Mae atgynhychu heb awdurdod yn torri hawlfraint y Goron. Gall hyn arwain at erlyniad neu achos sifil. Cyngr Bwrdeistref Sirol Caerffili, 100025372, 2010.



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Appendix 2 – Coal Buffer Zone for inclusion on the Proposals Map

MNX - Coal Buffer Zone

1:12,500



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Gall hyn arwain at erlyniad neu achos sifil. Cyngor Bwrdeistref Sirol Caerffili, 100025372, 2010.

Policy/Proposal No:		Assessing Officers: PG,DL,PC							Date:	
Assessment Test		Nature of Effect	Additional Effects	Predicted Effect						Comments
				Assessment of Effect						
				Effect Period						
				S/T		M/T		L/T		
								Analysis Result changes from assessment		
		Old	New	Old	New	Old	New			
1	Will it reduce the need to travel?	High Major Countywide Permanent	Cumulative Synergistic Secondary		XX		XX		XXX	• Possibly as close to HoV A465T and reduce need for longer distance commuting
2	Will it encourage walking as the mode of travel to local amenities due to the proximity of development to existing services/facilities?	Medium Moderate Local Permanent	Cumulative Synergistic Secondary		X		X		X	• Not really accessible by foot
9	Will it remove derelict land? (brownfield)	High Major Countywide Permanent	Cumulative Synergistic Secondary		●		++		++	• Once redundant would reuse a site however restoration conditions could conversely result in a negative score.
14	Does it help reduce disparities between Southern and Northern Wards?	High Moderate County Permanent	Cumulative Synergistic Secondary		++		++		++	• HoV area
17	Will it provide jobs in accessible locations by all modes?	High Major County Permanent	Cumulative Synergistic Secondary		X		X		X	• Will provide jobs but not in an accessible location.
18	Will it support the role and function of the settlement within which it is located?	High Major Countywide Permanent	Cumulative Synergistic Secondary		●		●		●	•
23	Will it promote economic growth particularly in the most deprived areas?	High Moderate County Permanent	Secondary Cumulative Permanent		+		+		+	• Area of high deprivation but noted that not accessible for all. Possible ++
34	Is it likely to improve air quality within a designated air quality management area?	High Major Local Permanent	Cumulative Synergistic Secondary		●		●		●	•
40	Will it maintain or improve landscape quality?				+		+		+	• Positive contribution if considered against current condition however likely to be negative if considered against a restored site
41	Is it likely to adversely affect an area of landscape importance?				X		X		X	• Adjacent to VILL
42	Is it likely to adversely affect a building, structure or area of heritage importance?				●		●		●	• Located in an area of general heritage importance
49	Is it located outside of an area at risk of flooding				+		+		+	•
51	Does it reduce the risk of flooding to people and property	High Major Countywide Permanent	Cumulative Synergistic Secondary		●		●		●	•
53	Will it impact locally on recognised site of geological importance?				●		●		●	•
54	Will it potentially reduce the amount of derelict, contaminated degraded or underused land?	High Major Countywide Permanent	Cumulative Synergistic Secondary		++		++		++	• Timing dependant upon cessation of coaling. Considered as degraded.
59	Does it protect areas of importance for biodiversity?	High Major Countywide Permanent	Cumulative Synergistic Secondary		X		X		X	• Adjacent to SINCS and alternative restoration could result in site becoming of importance for flora and fauna.

61	Does it protect woodlands, hedgerows, trees and watercourses?	High Major Countywide Permanent	Cumulative Synergistic Secondary		●		●		●	▪
62	Will it provide the opportunity for the reduction of invasive plant species?				●		●		●	▪
63	Does it guard against habitat fragmentation?	High Major Countywide Permanent	Cumulative Synergistic Secondary		●		●		●	▪ Would not worsen
65	Will it promote reduced journey length by private vehicles?	High Major Countywide Permanent	Cumulative Synergistic Secondary		× ×		× ×		× ×	▪ remote site
68	Does it promote the use of alternative travel other than the car?	High Major countywide Permanent	Cumulative Synergistic Secondary		× ×		× ×		× ×	▪ If however considered in terms of freight the railhead could be utilised resulting in a neutral or positive score.
69	Will it deliver services and facilities in locations accessible by modes other than the car?	High Major County Permanent	Secondary Cumulative Synergistic		●		●		●	▪ See above

Comment Have considered the issues of reclamation to ‘natural’ state post coaling and also rail freight head.
Type of use and No trips is a key consideration
Very broad range of results for site some of which are hard to either mitigate or optimise.

Appendix 4

Tracked change document to accompany Statement of Common Ground – Natural Heritage Policy Wording (ED.43)

Conservation of Natural Heritage

SP12 The Council will protect, conserve, enhance and manage ~~maintain, enhance and positively 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)

1.69 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 our urban areas. The natural heritage is a positive asset that enriches people's quality of life and promotes the regeneration of areas.

1.70 ~~Caerphilly County Borough is a rural authority with A~~almost 80% of Caerphilly County Borough the area 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 preserving, enhancing and managing the valuable ~~yet vulnerable~~ features in both the natural and built environment.

Natural Heritage Protection

CW 8 Development proposals that affect locally designated natural heritage features, will only be permitted:

A where they ~~either maintain or~~conserve and where appropriate enhance the ~~main~~distinctive or characteristics features of ~~designated the~~ Special Landscape Areas (SLA) or Visually Important Local Landscapes (VILL)

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 ~~Maintain or~~Conserve and where enhance the ecological or geological importance of the designation, or
- ii Where the need for the development outweighs the ecological importance of the site, where harm is minimised by mitigation measures and offset as far as practicable by ~~compensatory provision measures~~ designed to ensure there is no reduction in the overall

~~value of the area or feature, is made, of the same standard and size to that lost as a result of the development~~

~~2.422.18~~ The natural heritage of the County Borough is diverse ~~and wide spread,~~ 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~~ proposals that would, or would be likely to, have a detrimental effect upon the biodiversity, geological or landscape ~~features and characteristics of the County Borough, interest of the respective site or species.~~ ~~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.

CONSERVATION OF NATURAL HERITAGE

Special Landscape Areas (SLAs)

NH 1 Special Landscape Areas are identified and will be protected at the following locations:

NH 1.1 Upper Rhymney Valley

NH 1.2 NH 1.1 Gelligaer Common

To be completed as per the strategy area.

3.1 Special landscapes ~~Areas~~ are ~~local non-statutory designations that seek designated~~ to protect areas that ~~are considered to be important to the overall~~ exhibit distinctive landscape, historically, culturally, biodiversity and geologically ~~features and characteristics within of~~ the County Borough. They are locally important elements of the natural heritage intrinsic to the overall character of both the rural and urban environments, and provide a living history of the evolution of the area's landscape as well as a cultural backdrop and visual setting. The designation of SLA's highlight the holistic consideration of landscape with emphasis placed on the 'special' nature of the distinctive landscape features and characteristics in these areas.

3.2 ~~Two special landscape areas have been identified in the HOVRA. These areas will be protected from any development that would harm the individual and distinctive features of the Special Landscape Areas. 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 ~~adverse unacceptable~~ impact on the

unique distinctive features or characteristics associated with the specific Special Landscape Area.

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 landscape. The system ~~It is a unique system,~~ allowing 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 the 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 allocations can be found in **Appendix 1, which provides a breakdown of the distinctive landscape features and characteristics within the SLA.**

Visually Important Local Landscapes (VILLs)

NH 2 Visually Important Local Landscapes are identified and will be protected at the following locations:

NH 2.1 Northern Rhymney Valley

NH 2.2 Manmoel

3.3 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 ~~–h~~How we ~~as individuals~~ perceive and respond to the landscape around us all. ~~the physical attributes of landform, land cover, visual patterns, sensory characteristics and the relationship between all these elements of the landscape is an important part of our relationship with the landscape as an entire entity. VILLs are intrinsic to the overall character of both the rural and urban environment, and how we as society interact with our visual landscape. VILLs seek to protect this important relationship between the landscape and how we as individuals perceive and respond to the landscape around us. The HOVRA has two Visually Important Local Landscapes. VILLs have been identified using only the visual and sensory layer of LANDMAP.~~

Development will only be permitted where it conserves and, where appropriate, enhances ~~respects, retains, enhances and manages~~ the distinctive and individual visual and sensory landscape features or characteristic of the VILL. Development proposals should demonstrate that all of the locally, regionally and nationally important ~~these~~ features of the visual and sensory LANDMAP aspect layer are protected ~~conserved and where appropriate, enhanced and managed~~ for the benefit of the visual landscape character. A detailed description of the Visually Important Local Landscape ~~VILL~~ allocations designation can be found in **Appendix 2, which provides a breakdown of the distinctive visual and sensory landscape features and characteristics within the VILL.**

Sites of Importance for Nature Conservation (SINC)s

NH 3 Sites of Importance for Nature Conservation are identified and will be protected at the following locations:

NH XX (To be completed as per the strategy area)

3.4 Sites of Importance for Nature Conservation (SINCs) are an important resource covering significant areas of biodiversity priority habitats and species. Designation should be based on objective scientific criteria in accord with the (developing) Wales wide guidelines. This policy applies to all sites that meet the criteria for designation.

~~3.5~~ Development will not normally be permitted where it would cause unacceptable harm to the features of a SINC, ~~unless the development could not reasonably be located elsewhere or where the socio-economic benefit of the development is considered to outweigh the nature conservation value. 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, manage and, where appropriate, restore locally distinctive natural habitats and species should be provided. A description of the Sites of Importance for Nature Conservation allocations can be found in **Appendix 4.**~~

~~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, manage and, where appropriate, restore locally distinctive natural habitats and species should be provided. A description of the Sites of Importance for Nature Conservation allocations can be found in **Appendix 4.** (Paragraph to be amalgamated with the above paragraph).~~