

10. Tourism & Leisure

10.1 PARAGRAPH 8.1.1 Justification of Part 1 Policies

Objection

DO/50783/1297 Porthcawl Town Council

Issue

10.1.1 This is whether or not, in the context of tourism, the Plan makes clear the distinction between Bridgend town and Bridgend County Borough, and that there is more than one town centre in the County Borough.

Conclusions

10.1.2 Section 8.1 of the UDP, which provides the justification for Part 1 Policies refers throughout to Bridgend County Borough. Para 8.1.5 refers to 'town and district centres'. I consider that the references are clear and appropriate.

Recommendation

10.1.3 I recommend that no modification be made.

10.2 PARAGRAPH 8.2.1 Introduction

Objection

DO/51192/1456 Llynfi Valley Forum

Issue

10.2.1 This is whether or not this chapter of the UDP ignores Maesteg.

Conclusions

10.2.2 I agree with the Council that most of the policies in this chapter would apply equal to proposals for tourism development, wherever they occurred in the County Borough. The chapter refers extensively to Porthcawl, but this is understandable in view of its resort status and position on the coast. The objectors do not highlight any specific omissions in respect of Maesteg, and I see no reason to include a general reference to the town in this chapter.

Recommendation

10.2.3 I recommend that no modification be made.

10.3 PARAGRAPH 8.4.2 The Tourism & Leisure Product

Objection

DO/51231/1016 Riparian Owners River Ogmore

Issue

10.3.1 This is whether or not the UDP should mention game fishing on the River Ogmore as a significant source of tourism in the County Borough.

Conclusions

10.3.2 The objectors argue that there are a number of stretches along the River with significant fish stocks where fishing rights have been granted. The riparian owners wish to attract tourists to fish these waters in a sustainable way, and consider that the UDP should give greater recognition to this resource and its potential. The Council has proposed a modification in the PIMS to para 8.4.2 in order to include a reference to angling as a locally available tourism and leisure activity.

10.3.3 At the Inquiry, the objectors argued that the River Ogmore is such a fine resource for high quality fishing that fishing should merit a complete paragraph in the UDP. The objectors would prefer the term 'game fishing' to angling, and argue that sea fishing might also be dealt with. However, I agree with the Council that the UDP is not primarily a document for the promotion of new tourism and leisure activities. For planning purposes, I conclude that the reference inserted by way of the PIMS is sufficient and no further changes are needed.

Recommendation

10.3.4 I recommend that para 8.4.2 be modified as shown in the PIMS.

10.4 POLICY TM1 Development for Tourism & Leisure

Objections

DO/51211/1702 Forest Enterprise
DO/51210/1684 Mr L Joseph
DO/51229/1869 National Assembly for Wales

Issue

10.4.1 This is whether or not the policy is sufficiently clear in its purposes and sufficiently flexible.

Conclusions

10.4.2 The NAW seeks greater clarification as to what amounts to 'countryside leisure and recreation', and argues that criterion 4 discriminates against small scale, farm-based tourism and leisure consistent with rural diversification.

10.4.3 Mr Joseph's objection is made with other objections to the UDP in the context of a proposal for a mixed use allocation on land south of Island Farm, Bridgend. The objector proposes that a mixed use development should include a hotel and restaurant available to serve the proposed new sporting facility, as well as local residents and visitors to the area. The objector points out that the Ogwr Borough Local Plan recognises a shortfall in the supply of tourism attractions and accommodation, and contends that Policy TM1 could usefully be re-worded to introduce a degree of flexibility and recognise that tourism/leisure developments can be acceptable in countryside locations. Mr Joseph and the Forest Enterprise seek changes to the wording of criteria 1, 2 and 4.

10.4.4 On criterion 1, I agree with the Council that Policy EV1 and its reasoned justification make clear what is meant by the countryside. In its reply to the objector, the Council refers to *'activities which by their very nature require a countryside location such as golf, walking, cycling, fishing etc whose environmental impact is usually minimal.'* I consider that it would be useful to include a definition of relevant countryside activities in the reasoned justification in paras 8.6.2 and 8.6.3.

10.4.5 The definition proffered by the Council identifies both sporting (golf and fishing) and recreational (walking) activities, which are the subject matter of the following chapter in the UDP. This definition highlights the difficulties of distinguishing facilities for tourism/ leisure/ recreation/ sport and drafting appropriate policies. These difficulties were explored at the Public Inquiry, and I shall return to them in my Chapter 11. PPWales contains section 11, which refers to tourism, sport and recreation, and section 10 which covers retailing and town centres. The concept of 'leisure' is discussed in both sections, but mainly in section 10 (see paras 10.2.4, 10.2.9, 10.2.10, 10.2.14 and 10.3.13). In my opinion, Policy TM1 would be clearer if criterion 1 related only to 'tourism and leisure', and left the matter of 'recreation' to Chapter 9 of the UDP.

10.4.6 The Council points out that Policy E11 permits rural diversification, though I agree with the objectors that criterion 4 could rule out some development in rural areas unfairly, particularly if that development was farm-based and/or served non-motorised users, such as walkers or cyclists. The NAW suggests a separate policy for farm diversification. I see a good case for sub-dividing Policy TM1, so long as it could be achieved without losing its overall thrust. I consider that the objection would be met if the policy dealt separately with urban and rural proposals, in a similar vein to Policies TM2 and TM3. New or extended tourist facilities in urban areas would be permitted where criteria 3, 4 and 5 were satisfied. Facilities in the countryside would only be permitted where the activity by its nature required a countryside location and/or the facilities represented farm diversification, and in addition criteria 2, 3 and 5 were met.

10.4.7 On the detailed wording points, I agree with the Council that the use of 'unacceptable impact' to qualify criterion 2 would make it less precise and conflict with the Council's approach to policy wording described in General Proof 1, CD147. On criterion 4, my proposed modifications should overcome the objection. I conclude that the policy could benefit in terms of clarity of purpose and flexibility from some re-wording with additional text in the reasoned justification.

Recommendation

10.4.8 I recommend that the policy be re-worded as follows:

'DEVELOPMENT FOR TOURISM – New or extended tourist and leisure facilities and attractions will be permitted in urban areas, where all the following criteria are satisfied – (then follows criteria 3,4 and 5).

New or extended tourist and leisure facilities and attractions in the countryside will only be permitted if the activity by its nature requires a countryside location, and/or the proposed development is part of a rural diversification scheme. Development proposals should satisfy all the following criteria – (then follows criteria 2,3 and 5).'

10.4.9 Paras 8.6.2 and 8.6.3 of the UDP should be modified by the addition of a definition of tourist activities which require a countryside location, and a cross-reference to Policy E11 on farm diversification.

10.5 POLICY TM2 Accommodation for Visitors in Urban Areas

Objections

DO/51209/1665 Countryside Council for Wales
DO/51210/1685 Mr L Joseph
DO/51229/2207 National Assembly for Wales

Conditionally Withdrawn

DO/51229/2115 *National Assembly for Wales*

Issues

10.5.1 These are:

- Whether or not the criteria in the policy should be extended so as to take account of the need to conserve acknowledged wildlife interests;
- Whether or not the policy should be made more flexible, particularly in respect of proposals for development adjoining settlement boundaries;
- Whether or not criterion 3 on car parking should be re-worded;
- Whether or not the word 'permitted' should be used in place of 'favoured'.

Conclusions

10.5.2 On the first issue, and the change to the policy which is sought by the CCW, I consider that section 3.9 of the UDP provides a number of policies which would safeguard the interests of wildlife. The introduction to the UDP as proposed for modification in the PIMS (para 1.1.8) makes clear that any development proposals will be assessed against all the policies in the Plan. In these circumstances and in the interests of keeping policies simple and clear, I see no reason to modify the policy as suggested by the objector.

10.5.3 On the second issue, Mr Joseph argues that it would be entirely reasonable to allow accommodation adjoining built up areas. In his opinion, a hotel for example at Island Farm could be located on brownfield land and without harm to environmental interests. However, whatever the merits of individual sites, I consider that greater flexibility in the policy

could contribute to urban sprawl and the unnecessary loss of countryside. The objector also seeks a change to criterion 2 whereby 'unacceptably' would be added before 'harmed' in the interests of flexibility. However, I oppose this change which would be in conflict with the Council's approach to policy writing in General Proof 1, CD147.

10.5.4 On the third issue, I agree with Mr Joseph that it may not be necessary to provide car parking within the curtilage of the property, and that current national policy seeks lower levels of car parking than have been achieved in the past. I consider that the policy should provide for car parking consistent with reducing reliance on car-borne travel, whilst avoiding risks to highway safety from regular overspill car parking. The Council proposes a change in the PIMS so that the criterion would require parking to meet the Council's approved parking guidelines.

10.5.5 The NAW has made a counter-objection to this, on the grounds that it is unreasonable to seek compliance with SPG in the policy. I agree with the NAW and consider that reference to approved parking guidelines should be limited to the reasoned justification for the policy. The Council has referred me to the explanation of car parking standards in paras 6.5.7-6.5.9 of the UDP. These paragraphs imply that parking guidelines are in the process of being formulated and approved, whereas the proposed change to Policy TM2 in the PIMS suggests that approval has been obtained. Clearly, there should be consistency within the Plan and it is possible that, if not yet achieved, the SPG will be approved by the time the UDP is adopted. I conclude that the wording of criterion 3 should be modified along the lines proposed by the NAW.

10.5.6 On the last issue, the NAW made objection to a number of policies in the UDP which stated that development would be 'favoured'. The objection is withdrawn provided that the word 'permitted' would not be appropriate in the policies. In this case, a number of criteria have to be satisfied and the policy relates to development in existing settlements where development would be consistent with the preferred land use strategy. I consider that 'permitted' would be entirely appropriate. I shall therefore recommend that the wording of the policy is changed to 'permit' relevant development.

Recommendation

10.5.7 I recommend that Policy TM2 be modified as follows:

'...within existing settlements will be permitted provided that.....

3 it will have satisfactory car parking; ... '

10.5.8 I recommend that the change to criterion 3 proposed in the PIMS should not be made.

10.5.9 I recommend that the reasoned justification be modified to explain that car parking should be consistent with reducing reliance on the car whilst avoiding harm to highway safety from parked cars, and to refer to the Council's proposed/existing car parking guidelines.

10.6

POLICY TM3

Accommodation for Visitors Outside Urban Areas

Objections

DO/51209/1666	Countryside Council for Wales
DO/51211/1703	Forest Enterprise
DO/51229/1870	National Assembly for Wales
DO/51231/1018	Riparian Owners River Ogmore

Issues

10.6.1 These are:

- Whether or not the policy is too restrictive as it limits new accommodation to the re-use and/or conversion of disused and redundant buildings;
- Whether or not the policy should refer to the 'logical' boundaries of existing settlements;
- Whether or not criterion 1c imposes too strict a test for development proposals;
- Whether or not it is reasonable to expect public transport to be available in all cases.

Conclusions

10.6.2 On the first issue, the Riparian Owners argue that encouraging the leisure activity of game fishing would be highly sustainable, attractive to tourists and could be developed to benefit disabled people. The provision of accommodation to support sea trout fishing on the River Ogmore would stimulate the rural economy, but would be required close to the River. In reply, the Council argues that it could not frame the policy so that special accommodation could be provided for every type of tourism activity. I consider that the policy though restrictive is consistent with important policies to protect the countryside in the UDP's Chapter 3, The Environment. If developers are unable to identify suitable disused or redundant buildings, or a site within an existing settlement for new accommodation, then they could put forward a detailed proposal demonstrating that the benefits are so substantial that they would outweigh any harm to the countryside. However, my conclusion is that Policy TM3 should not be relaxed on the basis of the generalised evidence of potential for tourism associated with fishing which the objectors have put forward.

10.6.3 On the second issue, the Council has referred to 'logical' boundaries to the main settlements, in the absence of boundaries defined on the Proposals Map. I recommend in Chapter 3, section 3.3, that the UDP should include definitions for all settlements and delete the references to 'logical' boundaries. On this basis, I conclude that 'or logical' should be omitted from this policy.

10.6.4 On the third issue, Forest Enterprise argues that the Coalfield Plateau and Associated Valley Sides' has been too widely drawn. I take this to imply that Policy TM3 would be unduly restrictive of proposals for new tourist accommodation in the northern part of the County Borough. In Chapter 3, I conclude that Policy EV10 should be reviewed and only those parts of the coalfield plateau and associated valley sides which have special landscape value should be protected. I therefore agree with the objectors to Policy TM3 that criterion 1c is too onerous.

10.6.5 Policy EV10 identifies a number of 'special landscape areas' in addition to the coalfield plateau and associated valley sides. I consider it inconsistent and potentially unfair that Policy TM3 is selective of some areas of locally important landscape without offering an explanation in the reasoned justification. If criterion 1c were omitted from the policy, this would leave a number of areas of acknowledged importance at national level for their scenic quality or nature conservation interest. The catchall and potentially ambiguous 'other environmentally sensitive areas' should also be omitted. In my opinion, this would give a more robust policy, and would be sufficient, as criterion 2 would prevent harm to areas of local sensitivity. If the Council accepts my recommendation on this matter, it may wish to amend Policy TM1 in a similar way in the interests of consistency.

10.6.6 On the final issue, objectors argue that many areas in the countryside, including those with buildings which might be suitable for conversion under rural diversification schemes, are not accessible by public transport. The Council concedes that some leisure and tourism related development may be sited where regular public transport is not readily available. However, in accordance with para 11.2.3 of PPWales, it argues that there is an obligation to ensure that satisfactory access can be provided by a choice of modes including public transport.

10.6.7 Forest Enterprise proposes adding 'where possible' to the criterion, though I consider that this would weaken the policy and render the criterion ineffective. PPWales, para 11.2.3, refers to access to the countryside and coast *'by a choice of means of travel, but particularly on foot, by cycle and public transport.'* Though it is a subtle point, public transport is the last mentioned mode and, in my view, it is the reference to public transport which causes the problem for Policy TM3 and makes it unrealistic if not unreasonable. However, I consider it reasonable that tourist developments in the countryside should be accessible to walkers, cyclists and/or horse-riders for short local journeys, as well as in keeping with the highway requirements in criterion 5. I shall re-word criterion 4 so that it is realistic but recognises that a choice of access modes in the countryside is important.

10.6.8 Although the WTB has raised no objection to the policy, I conclude that some changes to it would be beneficial.

Recommendation

10.6.9 I recommend that Policy TM3 be modified by:

- the deletion of 'or logical' from the opening sentence;
- the deletion of 1c – the Strategic Coalfield Plateau and its Associated Valley Sides;
- the shortening of 1d to 'SSSis.';
- the re-wording of criterion 4 to: 'the development is accessible by a choice of transport modes and well related to the needs of the non-motorised traveller.'

10.7 POLICY TM4 Static Caravans and Chalets

Objection

DO/51211/1704 Forest Enterprise

Issue

10.7.1 This is whether or not the policy is too restrictive in seeking to resist 'chalets'.

Conclusions

10.7.2 The objector argues that the policy is unreasonably restrictive in respect of chalets, which could also cover cabins. Log cabin schemes can give a high quality development which would blend with the landscape, and be quite different from a static caravan site. The objector advises that the word 'chalet' should be deleted from TM4 and a new policy introduced with separate criteria for the assessment of chalet/cabin/forest lodge sites (see section 10.10).

10.7.3 The Council replies that both chalets and static caravans have a similar purpose in that they cater for short stay visitors. The Bridgend County Tourism Strategy (CD101) reported in August 2001 that there were some 2,062 static caravans, though the evidence to the Inquiry is that there are more than 4,000 in Porthcawl. In the Council's view, there is a sufficient supply, and some of the static caravans are perceived as visually intrusive. The Tourism Strategy identifies a gap in the market for high quality self-catering accommodation, but I am uncertain as to whether cabins would necessarily satisfy this niche. In any event, I have no doubts about the desirability of controlling development in the countryside, where the 'forest villages' to which the objector refers might be expected.

10.7.4 The Council points out that proposals for tourism development outside built up areas are assessed on their merits taking account of their prospective contribution to the economy and environmental impact. This process would enable the benefits of a well-designed and high quality 'forest village', which needed to be in the countryside, to be considered fairly. However, overall, I conclude that Policy TM4 is reasonable in seeking to limit the growth of free-standing static caravan, chalet or cabin developments and need not be modified.

Recommendation

10.7.5 I recommend that no modification be made.

10.8 POLICY TM5 Camping & Touring Caravan Sites

Objections

DO/51209/1667 Countryside Council for Wales
DO/51211/1705 Forest Enterprise

Issues

10.8.1 These are:

- Whether or not the policy should apply to the full length of the undeveloped coast;
- Whether or not the policy is too restrictive with reference to criteria 1c and 3.

Conclusions

10.8.2 The CCW comments that the Heritage Coast and Kenfig NNR cover only part of the undeveloped coast, unnecessary development of which should be avoided. The Council

replies that criterion 1d ‘SSSIs and other environmentally sensitive areas’ could cover the undeveloped coast. I consider that the strength of criterion 1 lies in the fact that it specifies precisely which areas are not to be harmed. It would become vague and potentially arbitrary if the end phrase of criterion 1d were applied as the Council suggests. Para 8.8.5 of the UDP indicates that additional sites for touring caravans and camping are needed. I would expect new permanent development associated with these facilities to be limited in scale, and criterion 2 should ensure that visual intrusion or any harmful impact is kept to a minimum. In these circumstances, I consider that the policy need not apply to the full length of the undeveloped coast, and criterion 1d should be modified so that it refers only to SSSIs.

10.8.3 On the second issue, similar objections were made to these aspects of Policy TM3. For the reasons given in section 10.6 above, I conclude that it would be desirable to modify criteria 1c and 3.

Recommendation

10.8.4 I recommend that Policy TM5 be modified by:

- the deletion of 1c – ‘the Strategic Coalfield Plateau and its Associated Valley Sides’;
- the shortening of 1d to ‘SSSIs.’;
- the re-wording of criterion 3 to: ‘the development is accessible by a choice of transport modes and well related to the needs of the non-motorised traveller.’

**10.9 POLICY TM6
Visitor Attractions**

Objections

DO/51209/1668	Countryside Council for Wales
DO/51211/1706	Forest Enterprise
PCO/51211/2144	Forest Enterprise
PCO/51229/2208	National Assembly for Wales

Issues

10.9.1 These are:

- Whether or not the policy should include criteria requiring compatibility with the environmental and conservation policies of the Plan;
- Whether or not the policy is unduly restrictive, particularly in requiring compliance with criteria 2 and 4, and 6 as shown in the PIMS.

Conclusions

10.9.2 The CCW advises that a criterion requiring compatibility with the conservation and environmental policies of the Plan should be added. The Council replies, correctly in my view, that in determining development proposals all relevant UDP policies should be taken into account. However, in the PIMS, the Council proposes additional criteria which, as the NAW alleges, repeat other Plan policies. In my view, a balance has to be struck between informing

prospective developers of visitor attractions as to the key requirements for their proposals, and being concise in policy writing. In this instance, I consider that 10 criteria is onerous, and should be reduced. Criteria 7 and 9 seek to summarise a number of the policies contained in Chapter 3, and are unnecessary especially if criterion 10 is included.

10.9.3 On the second issue, Forest Enterprise argues that it is unreasonably restrictive to allow only the re-use of suitable buildings in urban areas (criterion 2). There is no sound planning reason why new buildings or existing buildings in urban or rural areas should not be used. Forest Enterprise argues that the provision of new forest visitor centres, sensitively designed in appropriate locations, would be beneficial. The Council has proposed an amendment in the PIMS to criterion 2 so that it refers to urban and rural areas. However, I consider that this causes a conflict between criteria 1 and 2, since proposals for facilities in rural areas will not satisfy criterion 1. In addition, new buildings for educational, cultural or entertainment purposes could play a major role in regenerating town centre sites, and I see no reason why they should be prohibited.

10.9.4 These problems would be resolved if the policy permitted compliance with either criterion 1 /or criterion 2 (PIMS version of criteria). Whilst allowing more flexibility, this would not meet the counter-objection by Forest Enterprise in that new development in rural areas would not be permitted. However, Policy EV1 places strict control on development in the countryside, and in my opinion this policy should be consistent with that position, directing most new development to existing settlements.

10.9.5 On criterion 4, the Council accepts that some leisure and tourism related development may be sited where public transport is unavailable. I consider, however, that the type of facilities under consideration should be available to people by a choice of transport mode. For example, it should be feasible to walk to an information centre with catering facilities in the countryside as well as to reach it by car. I do not favour the addition of 'where possible' to criterion 4 as proposed by the objector, as this would make the relevant test imprecise. However, I shall recommend that the criterion is amended.

10.9.6 Forest Enterprise argues that criteria 3 and 7 should be reworded to give greater flexibility, and criterion 8 changed to reflect the provisions of Policy EV16. However, I shall not recommend that the words - unacceptable/unacceptably - are added, as these would make the policy less precise and are contrary to the Council's approach to policy writing (CD147). Criterion 8, in my view, provides a satisfactory cue for Policy EV16.

10.9.7 The NAW makes a counter-objection to criterion 6. For reasons given in my paragraphs 10.5.4 and 10.5.5 above, I consider that this should be changed to relegate the reference to 'approved parking guidelines' to the reasoned justification.

Recommendation

10.9.8 I recommend that Policy TM6 be modified as shown in the PIMS.

10.9.9 I recommend that Policy TM6 be further modified as follows:

'VISITOR ATTRACTIONS – Development for educational, arts, cultural will be permitted where:-

EITHER It will contribute to the regeneration of town centres

OR It will involve the re-use or adaptation of redundant and disused buildings in urban or rural areas.

In addition, proposed development should meet the following criteria:-

- 1 It would not adversely affect the amenities of people
- 2 It would be accessible by a choice of means of transport
- 3 The highway network would be capable of accommodating
- 4 It would have satisfactory car parking.
- 5 The site is not within an area of flood risk.
- 6 The proposal can be sympathetically assimilated into its surroundings in terms of its siting, scale, design and landscaping.'

10.9.10 I recommend that the reasoned justification in para 8.9.2 be amended as shown in the PIMS.

10.9.11 I recommend that para 8.9.2 be extended to explain what is meant by a 'choice' of means of transport, and the status and availability of car parking guidelines.

10.10 POLICY OMISSION New Chalet, Cabin and Forest Lodge Sites

Objection

DO/51211/1707 Forest Enterprise

Issue

10.10.1 This is whether or not a policy to permit the provision of quality chalet, cabin and forest lodge developments should be included in the UDP.

Conclusions

10.10.2 This objection is linked to that made against Policy TM4, on which I have concluded in section 10.7 above. The Bridgend County Tourism Strategy informs that there were more than 2,000 static caravans in Porthcawl in 2001, and the Inquiry evidence indicates that it may be as many as 4,000. As the Council advises, development which is necessary in the interests of countryside tourism, leisure and recreation is permitted by Policy EV1. Whether or not the proposed chalet, cabin, forest lodge developments would be high quality, catering for a different market and less intrusive in the landscape than caravans, their general proliferation would, in my view, be in conflict with policy to restrict development in the countryside. Even with the lower figure for static caravans, in view of the substantial existing provision of short stay accommodation in the County Borough and the desirability of controlling development in the countryside, I see no reason for a new policy as proposed.

Recommendation

10.10.3 I recommend that no modification be made.

10.11 POLICY TM7
Tourism & Leisure Attractions in Porthcawl

Objection

Conditionally Withdrawn

DO/51229/2116 National Assembly for Wales

Issue

10.11.1 This is whether or not the word 'favoured' should be replaced with 'permitted'.

Conclusions

10.11.2 The objector has withdrawn the objection, on condition that 'favoured' is only used where 'permitted' would be inadvisable. In view of the wide-ranging nature of this policy, I consider that the Council could need to assess any relevant development proposal in terms of a variety of other UDP policies. I am therefore satisfied that 'favoured' here complies with the approach to its use which is outlined in the Council's General Proof 1, CD147. I conclude that it should not be replaced with 'permitted' in this policy.

Recommendation

10.11.3 I recommend that no modification be made.

10.12 POLICY OMISSION
Visitor Accommodation/Leisure Development : Sarn Park

Objection

DO/51144/1333 Grantchester Plc

Issue

10.12.1 This is whether or not a new policy should be inserted to provide for visitor accommodation and small scale leisure facilities at Sarn Park.

Conclusions

10.12.2 The objectors advise that Policy TM4 of the Ogwr Borough Local Plan safeguarded land at Sarn Park for tourism, leisure and recreational purposes, though they are not now seeking major tourism and leisure development on this site. In the Employment, Retail and Transportation chapters, I explain why I consider that Sarn Park should not be allocated for major new development. I consider that Sarn Park should remain as part of the countryside, and conclude that a new policy providing for visitor accommodation and small scale leisure facilities there would be contrary to other policies in this Chapter of the UDP and harmful to the countryside.

Recommendation

10.12.3 I recommend that no modification be made.