

Bridgend Local Development Plan

Examination

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Tuesday 27 November 2012 10:00am

Session 5 – Environment

Inspector's Agenda with Matters and Issues

1. SP4 NATURAL ENVIRONMENT

[Figures in brackets identify a Representor and their representation number eg 54.31 refer to Representor 54 and representation 31].

- 1.1 Policy SP4 will not permit development which will have 'an adverse impact' on the listed environmental assets. However paragraph 4.1.2 does allow for an adverse impact 'in exceptional circumstances where it is in the public interest'.
- 1.2 The Welsh Government seeks that paragraph 4.1.2 should reflect differing levels of nature conservation policy protection. The impact and policy tests for development on a local Site of Importance for Nature Conservation (SINC) will be different from that in a Special Area of Conservation (SAC) (64.23). The Countryside Council for Wales (CCW) makes a similar point and seeks additional wording to amend the last two sentences of this paragraph to read: '*Proposals which are likely to have a significant effect on statutory nature conservation designations will be assessed against national planning policy as set out in Chapter 5 of Planning Policy Wales (Edition 4, 2011), and the relevant sections of Technical Advice Note 5: Nature Conservation and Planning (2009). Proposals which are likely to have an adverse effect on a LNR, SINC, or a RIGS will be assessed against the criteria set out in Policy ENV4*'. (54.31)
- 1.3 The Council points out that Paragraph 4.1.2 is a supporting paragraph to Policy SP4 which relates to nationally important sites which will be specifically protected. Proposals affecting local sites are dealt with under Policy ENV4 of the Plan. The Council considers that repeating references to national guidance in the LDP is not necessary.

Qn1a. Does the Council's response resolve the concerns or is greater clarity needed in the wording?

- 1.4 CCW recommends that paragraph 4.1.4 is amended for improved clarity so that the penultimate sentence reads as '*The LDP Habitats Regulation Assessment (HRA) concludes that future development could potentially have an impact on water resources...*'. (54.32) For improved clarity we suggest that the third sentence of paragraph 4.1.5 is amended by inserting '*and of*' after '*water quality and quantity; air quality*' (54.33). The Council responds that these are not soundness issues.

Qn1b. Even if this is not a soundness issue does the Council see any benefit in the change?

- 1.5 CCW considers that para 4.1.6 places more stringent restrictions on development in the Heritage Coast than that required by paragraph 5.7.4 of PPW. To meet Test of Soundness C2 we therefore recommend that the plan is amended accordingly (54.34).
- 1.6 The Council responds that the Heritage Coast has the highest quality scenery where planning policy should be similar to that applied to National Parks and AONBs to protect or enhance their beauty and to promote their enjoyment by the public. Its national importance should have similar status in landscape terms as SSSIs and NNRs have in biodiversity terms. It therefore does not consider any changes are necessary to the wording of this paragraph.

Qn1c. Does the Plan accord with national policy in respect of Heritage Coasts and, if not, is any variation justified?

2. ENV1 DEVELOPMENT IN THE COUNTRYSIDE

- 2.1 CCW has concerns about the phrase 'Development may be acceptable' as no indication is given as to where the forms of development identified in criteria 1 – 10 will not be acceptable. To provide greater certainty and to meet Tests of Soundness C2 and CE1 they therefore recommend that the policy is amended (54.35).
- 2.2 The Council responds that Policy ENV1 states that development in the countryside will be strictly controlled. Other policies in the plan, where relevant, will be used to guide where 'acceptable development' may be considered unacceptable.

Qn2a. Does that resolve the Representor's concerns?

- 2.3 CCW is concerned that the text in paragraph 4.1.10 is not clear whether 'certain developments' refer to all of the forms of development listed in Policy ENV1. (54.38).
- 2.4 The Council responds that Paragraph 4.1.10 is a justification paragraph to policy ENV1. 'Certain developments' referred to in the paragraph are those outlined in the policy and no further clarification is required.

Qn2b. Does that resolve the Representor's concerns?

3. ENV2 GREEN WEDGES

- 3.1 Planning Policy Wales provides that the designation of green wedges may be justified where land is required to serve the same purposes as a green belt but without its permanence and where normal planning and development control policies cannot provide necessary protection. A series of factors are to be taken into account. Designation creates a general presumption against inappropriate development.
- 3.2 A Mrs Wilkins considers that the policies in the LDP should stay the same as they were in the UDP making reference specifically to replacing green wedge policy EV11 in the UDP with a green infrastructure policy ENV5 in the LDP (see below) (117.4)

3.3 The Council responds that the LDP Policies and designations are based on updated evidence such as Background Paper 4: Green Wedge Designation (SD38).

Qn3a. Is Green Wedge policy ENV2 a direct replacement for UDP Green Wedge Policy EV11 but with changes to the designated areas?

3.4 Bridgend Town Council and Mrs Wilkins seek the designation of additional land as Green Wedges:

35.13 ENV2 Land West of Merthyr Mawr Road South between New Inn Road and the A48 (Alternative Site 068)

117.3 ENV2(8) Penyfai Common should be shown as a green wedge (Alternative Site AS014)

117.6 ENV2(9) Penyfai football field and play area should be added to Penyfai and Bridgend Green Wedge (AS015)

Qn3b. It appears that AS068 was disqualified as a Green Wedge in part because the distance between the relevant settlements exceeds 1 mile. Can the Council confirm this and indicate any other relevant considerations?

Qn3c. It appears that AS014 was disqualified as a Green Wedge in part because the distance between the relevant settlements exceeds 1 mile. Can the Council confirm this and indicate any other relevant considerations?

Qn3d. Site AS015 is the Penyfai football field and play area. It adjoins a designated green wedge to the east but is surrounded by the built up area of Penyfai on three sides. Can the Council explain the exclusion of this site in the terms of the designation criteria?

Qn3e. Are there other LDP policies that would protect the football field and play area from development?

3.5 In relation to Alternative Site AS012, a Mrs Kennedy objects that the proposed ENV2(12) Green Wedge between Kenfig and Mawdlam does not meet Planning Policy Wales criteria for green wedges (1241.1).

Qn7d. Does the Kenfig-Mawdlam green wedge accord with national policy and if not, is it justified?

4. ENV3 SPECIAL LANDSCAPE AREAS

4.1 Mrs Wilkins has seen no evidence why Penyfai Common and adjacent land should be removed from the UDP Court Coleman landscape conservation area. She considers that Penyfai Common should be included as an LDP Special Landscape Area (117.1; 117.2; 117.7).

- 4.2 In response the Council relies on the methodology and results of the Designation of Special Landscape Areas Review – March 2010 (SD87). This used common criteria developed for the South East Wales Local Authority Consortium.

Qn4a. Would the Council please explain why the Penyfai Common area does not qualify as a Special Landscape Area under the revised criteria when had it previously qualified as a Landscape Conservation Area in the UDP?

5. ENV4 NATURE CONSERVATION SITES

- 5.1 CCW is concerned that, as drafted, the policy gives the same weight to the promotion of the educational role of sites as to their nature conservation or scientific interest, when there may be no formal requirement for such a role. They recommend that the policy is amended by: (i) deleting '*whilst promoting their educational role*' from the second paragraph, and (ii) adding a new paragraph at the end of the policy that states, '*proposals that promote the educational role of local/regional sites will be supported where there is no conflict with the nature conservation/geodiversity interests of the site.*' (54.41)
- 5.2 In response, it is the view of the Council that the promotion and recognition of the educational role of sites with nature conservation interest is more likely in the short, medium and long term to enhance and maintain their protection by engendering awareness of their sensitivity and a sense of value and ownership to the local population.

Qn5a. Could the policy wording requirement that the educational role of sites be promoted risk any harm to the features for which the sites are designated?

- 5.3 PPW states in paragraph 5.4.6 that statutory and non-statutory designations should, where practicable, be clearly identified on the proposals map. CCW therefore considers that the Proposals Map should be amended to identify SINC's (54.42)
- 5.4 The Council responds that the current list of identified SINC's are those listed in the Bridgend Local Biodiversity Action Plan. They are currently under review as part of a separate process and so it has not been practicable to display the SINC's on the proposals map as they would be subject to change at a late stage of LDP preparation. In addition, the scale of SINC coverage in the County Borough is so great it could overwhelm the proposals map. At such time as the SINC work has been finalised (which will involve liaison with landowners etc) it is proposed to produce Supplementary Planning Guidance identifying the new list of sites and giving management advice to those landowners whose land contains a SINC. This in itself will also be subject to public consultation.

Qn5b. Should the SINC's be identified on the Proposals Map or does the PPW wording allow that this may be impractical, in which case is the SPG an adequate substitute?

6. ENV5 GREEN INFRASTRUCTURE

- 6.1 The Welsh Government indicates that a timetable for the production of the Green Infrastructure SPG would be helpful. (64.24)
- 6.2 The Council is currently working in partnership with the Countryside Council for Wales in bringing forward the Green Infrastructure SPG. This will be published for consultation purposes by the end of the year.

Qn6a. Did the UDP contain a Green Infrastructure Policy or is ENV5 an entirely new policy?

Qn6b. Is there an update on publication of the Green Infrastructure SPG?

7. ENV6 NATURE CONSERVATION

- 7.1 The Welsh Government considers that the Policy as drafted has a very wide remit as it applies to all development/redevelopment proposals and would be burdensome for very small scale developments. A threshold may help or further clarification given in the supporting text. (64.25)
- 7.2 The Council responds that Policy ENV6 is intended to encompass all development proposals. The design and layout of which should, where possible, seek to retain existing elements of the natural environment as listed in criterion 1. In very small scale developments, details of how this has been achieved in the development could be included in the mandatory Design and Access statement which would not be overly burdensome.

Qn7a. Does the Policy require the retention, conservation, restoration and enhancement of all natural features in all developments of any scale regardless of their significance for bio-diversity and would that be overly burdensome?

Qn7b. If a threshold would be appropriate, at what level should that be set?

- 7.3 CCW have concerns about the criterion 2 requirement for translocation as part of mitigation or compensation measures. Translocation is normally only undertaken as a last resort. As well as consideration of the habitat/species to be translocated, suitable receptor sites need to be provided with suitable soils and hydrology. CCW therefore advise that criterion 2 is amended to read '*Where this is demonstrated not to be possible, suitable mitigation or compensatory measures will be required to secure biodiversity including future management programmes.*' (54.44)
- 7.4 The reference in paragraph 4.1.29 to the *Conservation (Natural Habitats & etc.) Regulations (1994)* should be replaced with *The Conservation of Habitats and Species Regulations 2010* (54.46).
- 7.5 Notwithstanding the appropriateness or otherwise of these suggested changes, the Council consider that this does not go to the soundness of the Plan. However, the Council offers no evidence to counter this representation given the limited impact such a change will have on the application of the Plan and any subsequent outcome as a result of implementation.

Qn7c. Even if these are not soundness issues does the Council see any benefit in the changes?

Qn7e. Should paragraph 4.1.29 be corrected if it is out of date?

8. ENV7 NATURAL RESOURCE PROTECTION AND PUBLIC HEALTH

- 8.1 Given the potential adverse impact from over-abstraction on biodiversity, and that part of the County Borough's water supply is resourced from the Rivers Wye and Usk, both of which are SACs, CCW considers that criterion 6 should also refer to water quantity. (54.48)
- 8.2 CCW comments that Appendix 9 of the Deposit LDP Habitats Regulations Assessment (June 2011) clarifies that a significant proportion of the water resources used in the Bridgend CBC come from the Tywi Conjunctive Use Water Resource Management Zone (WRMZ). However, as also acknowledged in the appendix, some of Bridgend's water resources also come from the SE Wales Conjunctive Use System (SEWCUS), which includes water from both the River Usk and River Wye SACs. CCW recommends that Bridgend CBC satisfies itself, by confirming with Welsh Water Dwr Cymru or the Environment Agency, that there are sufficient resources available to supply the levels of growth proposed by the Plan without impacting on these European designations (To meet Tests of Soundness CE1 & CE3). (54.82)
- 8.3 The Council responds that information from Welsh Water states that the water supply to the Bridgend area is via the Llyn Brienne reservoir in Mid Wales which regulates the flows within the River Tywi. The water is abstracted at Nantgaredig near Carmarthen and is pumped to the Upper and Lower Lliw Valley reservoirs, north of Swansea. From here the water is treated at the nearby Felindre Water Treatment works and then pumped across to the Bridgend area. As such the abstraction within Bridgend would not impact on the Wye and Usk SAC's. The Council through the plan making process has not received any objection from Welsh Water/ Dwr Cymru in respect of water resource availability and issues of supply.

Qn9c. There is an apparent dispute of fact and contradictory information in the HRA as to whether any water to support the proposed growth would be drawn from the River Usk and Wye SACs. Can the Council please double check the facts?

9. SP5 CONSERVATION OF THE BUILT AND HISTORIC ENVIRONMENT

- 9.1 SP5(6) provides for the avoidance of a significant adverse impact on 'Areas of Historical Importance'. The policy also makes separate provision for the protection of Conservation Areas, Areas of Archaeological Significance and Historic Landscapes, Parks and Gardens, all of which are shown on the proposals map.

Qn8a. What are these other 'Areas of Historical Importance' and are they shown on the Proposals Map?

10. MISCELLANEOUS ENVIRONMENTAL ISSUES RAISED BY THE COUNTRYSIDE COUNCIL FOR WALES

- 10.1 Paragraph 3.3.2 of Technical Advice Note 5: Nature Conservation and Planning (2009), requires LDPs to make provision for the protection of protected species and their habitats, and to provide criteria against which a development affecting the different types of designated site will be assessed. CCW therefore advise that the LDP is amended to specifically set out the criteria against which proposals likely to affect (i) protected species and their habitat, and (ii) national and international designations will be assessed (to meet Test of Soundness CE1). To this end appropriate cross-reference could be made to relevant national policy (54.45).
- 10.2 The Council responds that the LDP sufficiently covers these issues in Policy SP2, PLA4, ENV4, ENV5 and ENV6. It is not necessary to formulate a policy which replicates these provisions or makes reference to Planning Policy Wales and Technical Advice Note 5. National planning policies are material considerations in the decision making process and are not required to be replicated in development plans. There is also statutory protection.

Qn9a. Is it necessary to repeat national policy?

REG1(18) Brynmenyn Industrial Estate

- 10.3 Planning permission has been granted for part of this allocation. CCW are aware that great crested newts (a European Protected Species) have been recorded on land adjacent to this allocation and advise that further proposals for development at this site should be accompanied by appropriate surveys to determine their presence. CCW recommend that this requirement for the site is identified in Chapter 9.0: Delivery and Implementation of the LDP. (54.73)
- 10.4 The Council considers that Section 9 (Delivery and Implementation) of the deposit LDP gives sufficient information but propose that an online LDP Site Database is established which is kept up-to-date and formally published once a year as part of the LDP Annual Monitoring Report (AMR). Background Paper 10 'Delivery and Implementation' includes a reference to the newts under 'Other Issue' for this site.

Qn9b. Has the Council's response and action resolved the issue?

REG12 New of Extended Tourist Accommodation and Attractions

- 10.5 CCW is concerned that the Mountain Biking Hub at Blackmill (REG12(3)) could have the potential for adverse impacts on the Blackmill Woodlands SAC. They recommend that Chapter 9 of the LDP should specify that development at this site will need to be screened to determine whether a (project-level) Habitats Regulations Assessment is required (54.78).
- 10.6 The Council considers that Section 9 (Delivery and Implementation) of the deposit LDP gives sufficient information but propose that an online LDP Site Database is established which is kept up-to-date and formally published once a year as part of the LDP Annual Monitoring Report (AMR). Background Paper 10 'Delivery and Implementation' comments that the HRA of the LDP identifies this site as being within 2km of a Special Area of Conservation (SAC) and that future development at this site may need to be screened to determine whether a project level HRA is required.

Qn10a. Has the Council's response and action resolved the issue?

- 10.7 CCW agree that the activities identified in paragraph 5.3.7 which supports REG12, can have minimal environmental impact, which is usually where participant numbers are low. However increased numbers of cyclists, horse riders and in certain circumstances walkers can sometimes result in adverse environmental impacts and will therefore require appropriate management measures and protocols. We recommend that the text is amended accordingly.
- 10.8 The Council responds that Paragraph 5.3.7 is already qualified by the use of the phrase 'may be acceptable' and any adverse environmental impacts would be appropriately considered under other relevant policies in the plan at a future planning application stage.
- 10.9 Paragraph 5.3.7 also describes the impact as 'usually minimal' which implies that there may be exceptions.

Qn10b. What specific amendment does CCW seek?

1 October 2012