

Bridgend Local Development Plan

2006-2021



Bridgend County Borough Council Examination Statement

Session 12: Energy

Bridgend Local Development Plan

Examination

<http://www.bridgend.gov.uk/ldpexamination>

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Session 12 – Energy

Inspector's Agenda with Matters and Issues

[Figures in brackets () identify a Representor and their representation number eg 54.23 refers to Representor 54 and their Representation 23].

1. PLA4 CLIMATE CHANGE AND PEAK OIL

- 1.1 Policy PLA4 states that it is applicable to all development proposals and that these are to be required to make a positive contribution towards tackling the causes of, and adapting to, the impacts of Climate Change and Peak Oil issues. Peak Oil is defined at paragraph 3.2.13 as the point in time when the maximum rate of global petroleum extraction is reached which the Council suggests may occur during the lifetime of the LDP and after which a direct impact on travel and on the costs of goods and service may be expected.
- 1.2 Whilst the Countryside Council for Wales (CCW) welcomes the inclusion of a policy which makes provision for development to address climate change mitigation and adaptation, it will not be appropriate for all development proposals to encourage the development of renewable energy. Additionally, it is unclear how the requirement to 'encourage' renewable energy generation as part of development schemes will be assessed when determining applications for planning permission. CCW therefore suggests that:
 - (1) the introductory paragraph of the policy is amended by inserting at the start of it, '*Where appropriate....*', and
 - (2) Criterion 3 of the policy is amended by requiring development to demonstrate how the provision of renewable energy (RE) technologies has been considered, with a requirement that schemes above a certain scale and type provide renewable energy proposals as part of their scheme. Proposals should ensure that the type, scale, layout, and design of any proposed RE technology is sympathetic to its location. (To meet Test of Soundness CE1) (54.23).
- 1.3 The Council responds that the policy is positively worded to express the Council's desire for all development within the County Borough to make a positive contribution towards tackling climate change. All developments could contribute in some way. Policy ENV17 of the plan provides information on the Council's expectations regarding renewable energy delivery on individual development sites.

Qn1a. Is it implicit that not every objective of the policy could be applied to every development?

The Council considers that it is implicit that not every objective of the policy could be applied to every development. The emphasis of the policy is that all development proposals should play a part in tackling these issues and the list of objectives should be seen as suggestions to achieving this. The Council will also be refreshing its current SPG to take account of these suggestions.

This policy builds upon criterion 14 of Policy SP2 and it is anticipated that design and access statements will refer to how the overall objectives are being met.

Notwithstanding this, the Council suggests that the wording of the policy could be made clearer by amending the opening paragraph as follows:

"All development proposals will be required to make a positive contribution towards tackling the causes of, and adapting to the impacts of Climate Change and Peak Oil. This can be achieved by:"

- 1.4 PLA4(2) amongst other things requires all development proposals to utilise local food supplies wherever feasible.

Qn1b. Is that a realistic and deliverable objective of planning policy?

The Council considers that, whilst this is a worthwhile objective (particularly in reducing 'food miles'), the use of local food sources could not easily be controlled, or enforced by the planning system although there is a non-specific link here with developments associated with the objectives of the Council's Rural Development Plan which has been considered as part of the regeneration-led LDP Strategy (SD74) . It therefore suggests that "*(including food)*" could be deleted from criterion 2 of Policy PLA4, notwithstanding the fact that the criterion does say "where feasible".

2. RENEWABLE ENERGY

Policy ENV17 Renewable Energy and Low Carbon Technology

- 2.1 Policy ENV17 provides, amongst other things, that for all developments above stated threshold sizes, 'energy assessments' 'should' be submitted. Paragraph 4.6.5 provides that 'energy statements' 'will be required' for all major developments.

Qn2a. Is the wording of the Policy and its supporting text in accord or are they open to conflicting interpretations?

The Council considers that there could be conflicting interpretations of the two statements.

To rectify this, it suggests that paragraph 4.6.5 be amended to read:

"In order for development proposals to set out how they will make a contribution towards providing increased levels of energy generation from renewable and low/zero carbon resources, energy statements should be prepared for all major development proposals (defined in Policy ENV17). The Council will therefore expect all major development proposals to examine the potential for renewable and low/zero carbon technologies on-site and, where appropriate, the sharing of that energy with the wider community"

- 2.2 CCW recommends that the second paragraph of Policy ENV17 is amended by inserting "appropriate" after "incorporating" to ensure that the type, scale, and design of renewable energy technology proposed does not have an unacceptable adverse impact on the natural environment or other relevant material considerations (To meet Test of Soundness CE1) (54.63).
- 2.3 Notwithstanding the appropriateness or otherwise of this suggested change, 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.
- 2.4 CCW considers that to provide clarity to plan users/prospective developers the allocation ENV17(3), Penybont treatment works should specify that a project level HRA will be required in relation to Kenfig/ Cynffig SAC. (To meet tests of soundness CE1 and CE2) (54.67).
- 2.5 The Council responds that a Sewage Gas renewable energy scheme is already operational at Penybont Waste Treatment Works and therefore no changes to the plan are required.
- 2.6 Policy ENV17 'safeguards' 3 sites for renewable energy generation and each is identified on the Proposals Map by a green symbol.

Qn2b. Are these development allocations, in which case are they realistic and deliverable?

The 3 sites listed are two future development allocations and one existing scheme; all 3 are reflected in the findings of the Renewable Energy Assessment. Sites ENV17(1) and ENV17(2) have planning permission. ENV17(3) is operational and did not require consent as the equipment was housed in existing buildings.

The term 'safeguarded' is confusing and the Council would propose the fourth paragraph to be reworded to state: "The following sites are allocated for renewable energy generation".

Qn2c. If the Policy is seeking to prevent other development on these sites, does the Proposals Map adequately define the extent of the sites?

All of the ENV17 sites are located in the countryside and therefore have a certain amount of protection from other forms of development. However, the Council considers that the current notational designation does not fully outline the extent

of the designations. It would therefore suggest that a MAC change could be proposed to define the sites.

Qn2d. Have the CCW concerns in relation to the Penybont site been superseded by events and is it necessary to retain the safeguarding (or allocation) of this site?

As the Penybont site has been implemented (and in any event did not require planning permission as it was located within an existing building), in the context of the suggested changes made above, it would not be sensible for the allocation to remain. The Council would therefore propose that the allocation is deleted from the Plan.

Policy ENV18 Renewable Energy Developments

- 2.7 Policy ENV18 sets criteria for permitting wind farm developments including that those of 25MW or more are within the boundary of the refined Strategic Search Area (SSA) on the Proposals Map. However Paragraph 4.6.9 then refers to a requirement for a sequential assessment for large scale developments that prefers locations in the refined SSA to those in the original TAN8 (unrefined) SSA (which includes the refined SSA as well as other land); and which then prefers those locations to other areas outside the [unrefined?] SSA 'which are in accordance with Policy ENV18'.
- 2.8 CCW considers that there are contradictions between Policy ENV18 and the last sentence of paragraph 4.6.9. The last sentence of 4.6.9 states that developments for large scale wind energy projects will be expected to be accompanied by assessments which examine locations in a sequential order, the last of which are areas outside of the strategic search area (SSA) which are in accordance with Policy ENV18. However, criterion 1 of the policy requires large scale wind farm developments to be located within the boundary of the refined SSA. To meet Tests of soundness C2 and CE1, the policy and supporting text should therefore be amended to provide consistency between the two (54.65).
- 2.9 The Council responds that it is required to set out its policy position with regard to renewable energy generation developments in its LDP. Policy ENV18 clearly states that, large scale wind farm developments should be located within the refined Strategic Search Areas (SSAs). However, this needs to be examined in the context of national planning policy which indicates that large scale wind farm developments are acceptable in principle in the wider, original SSAs outlined in TAN8. To this end, paragraph 4.6.9 explains how the Council will implement both these facets of national and local policy; by requesting a sequential assessment of sites. It is acknowledged that some development proposals may not accord with criterion 1 of Policy ENV18, therefore the introduction of a third stage; i.e. areas outside the refined SSAs are also included for completeness. The Council considers therefore that there is no need to alter the plan in response to this representation.

Qn2e. Has the Council correctly identified the status of the original TAN8 SSA following its refinement?

Qn2f. Is a sequential approach appropriate and should that be part of the policy?

Qn2g. How would a prospective wind farm developer be expected to apply the sequential approach in practice?

Paragraph 12.9.4 of Planning Policy Wales states that: *"At the strategic scale development plans should, where relevant, provide policies to clarify in the SSAs where strategic scale wind energy developments are likely to be permitted, for example by identifying local micro-siting criteria or identifying specific preferred locations. The SSA boundaries have been drawn to allow for some local refinement; however, in defining such locations or criteria it will be important to ensure they do not differ significantly without local evidence from the indicative boundaries of the SSAs set out in TAN8"*

The refinement exercise was carried out by Ove Arup and Partners in 2006 (SD116) and using a process of environmental constraint mapping and detailed zone analysis, identified refined SSAs which could accommodate the 290MW target installed capacity for SSAF, Coed Morgannwg, which affects Bridgend County Borough.

It is these areas which are displayed on the Proposals Map; and therefore the Council's preferred locations for large scale wind farms.

The Council, in acknowledging the original SSA boundaries form part of national policy, suggests that the refined SSAs be examined first, followed by a consideration of the wider SSA areas where proposals may be justified having specific regard to the detail contained within the Ove Arup report and the need to meet the overall generation targets of the SSA.

For example, in December 2011, a planning application (ref 10/844/FUL refers) for 15 Wind Turbines (3 of which fell in Bridgend County Borough) was approved (subject to the signing of a section 106 agreement). This proposal lay outside of the refined SSA, yet inside the original TAN8 SSA F.

The officers report referred specifically to the Ove Arup report, and in this respect gives a good example of how the above provisions would be used in practice:

"The site lies entirely within Zone F20 as identified within the Arup report, and is described as an area of moderate value and has been specifically excluded from the 'refined' SSA as defined in the Arup report...The reason for the exclusion relates principally to the suitability of the western area of the SSA for large scale wind farm development and the need to prevent a situation whereby the upper Llynfi Valley is encircled by wind farm development. There are no consented schemes in this location although much of the area lies within NPT [Neath Port Talbot] and it is possible that proposals may be forthcoming at some future time. Despite the preference for development in the Arup report the application must be determined on its merit"

The Council therefore operates a flexible approach in this regard and will continue to do so, in a positive fashion, where development proposals can be justified.

National Policy (paragraphs 2.2 and 2.13 of TAN8) directs large scale windfarms (in excess of 25MW) to the SSAs. Therefore it would not be appropriate, as the Council originally inferred in paragraph 4.6.9, to include reference to the consideration of these schemes outside the SSA areas.

Qn2h. Are amendments needed to clarify the apparent conflict between the policy and its supporting text?

The Council accepts that the policy and supporting text, as worded, may be confusing. It would therefore suggest that the opening wording of Policy ENV18 be amended to state:

Wind farm developments of 25MW or more will be permitted where they are located, in order of preference:

- a. Within the boundary of the refined Strategic Search Area*
- b. Within the boundary of the TAN8 SSA F: Coed Morgannwg, and required to meet the generating capacity targets.*

In addition, and for all other renewable energy developments, all of the following criteria should be satisfied:

(Policy continues with criteria 2 – 9 as per the deposit LDP)

As the original TAN8 boundaries are now suggested to be contained within policy, the Council would welcome the Inspector's thoughts on the need to illustrate the original TAN8 SSA F boundary on the proposals map, in addition to the refined Strategic Search Area, in the context of a general presumption against repeating national policy, which the original SSAs form part of.

In addition, paragraph 4.6.9 could be reworded as follows:

"The wider SSA areas form part of national policy and therefore will continue to be considered as the starting point for assessment of large scale (in excess of 25MW) wind energy developments. However, the locally refined SSAs within Bridgend County Borough (as shown on the Proposals Map) are seen by the Council as the preferred location within the County Borough for developments of this nature. In this respect applications for large scale projects outside of the refined SSA (but within the TAN 8 SSA) will need to be justified on the basis that they are required to meet the generating capacity targets of the SSA, with reference to the specific reason/s for exclusion of that area in the 2006 refinement study."

- 2.10 CCW accepts that within SSAs there will be landscape change, but outside of SSAs there is an implicit objective to maintain landscape character. The policy should therefore be amended to include an additional criterion which requires appropriate consideration to be given to the sensitivity of the landscape of the

area accommodating development. (To meet Tests of Soundness C2 and CE1) (54.66).

- 2.11 The Council responds that landscape protection is addressed by Policy SP4. Areas of particular importance for landscape protection are identified by Policy ENV3. It is therefore considered unnecessary to include additional references to landscape protection within Policy ENV18.

Qn2i. Does CCW dispute the Council's response?

The Council will await the response from CCW.

However, upon reflection, the Council considers that as landscape protection is such an important consideration in the determination of renewable energy (particularly wind) development proposals, particularly in relation to cumulative impacts, it may warrant a separate criterion in Policy ENV18. It would therefore suggest the following wording:

"They would not individually, or cumulatively with other proposals, adversely impact upon the landscape of the area accommodating the development"

Alternatively, it would be happy to consider an alternative form of wording that CCW may wish to suggest.

3. COAL BED METHANE EXTRACTION (CBM)

- 3.1 Coal Bed Methane is included in development covered by Policy ENV11 Mineral Development and its supporting text at paragraphs 4.3.9 and 4.3.10. However there is other text at paragraphs 4.6.13-4.6.18 under the above sub-heading and within the overall heading of '4.6 Energy Generation, Efficiency and Conservation'.
- 3.2 Ogmore Valley Community Regeneration (OVCR) suggests that the LDP is not accurate and contrary to soundness test C2 in that it is WG's strategy to encourage renewable energy. Coal bed methane is not a renewable energy source and it does not contribute to the reduction of CO2. They additionally note that the LDP does not mention the significant carbon footprint resulting from CBM extraction (1247.1).
- 3.3 OVCR also objects with regards to Soundness Test: CE1 stating that the LDP implies that the Council considers CBM extraction to be wholly safe with much smaller impact on the environment than previous mineral extraction operations. They suggest that this is not an accurate statement and it poses high impact on human health and the environment (1247.2).
- 3.4 In relation to Soundness Test CE3, OVCR advises caution in supporting a process which could have serious impacts on the environment and health (1247.2).
- 3.5 The Countryside Council for Wales considers that it is not correct to state that the extraction of coal bed methane (CBM) can take place without adverse environmental impacts. CBM has a number of impacts including,

- changes to ground water levels;
- how pumped water is disposed of;
- the surface footprint of plant;
- it often involves 24 hour drilling so may have impacts on any nocturnal wildlife.

- 3.6 The significance of impact will normally depend on the location of the proposed extraction. To meet test of soundness CE2, CCW recommends that the text is amended accordingly (54.68).
- 3.7 The Council responds that the Plan is positively worded to support Coal Bed Methane extraction where it is demonstrated that the environmental (and other) impacts arising from the proposal can be avoided or minimised. This would primarily be undertaken on a case-by-case basis. This is considered by Policy ENV11 of the LDP which includes Coal Bed Methane development proposals. Whilst Welsh Government priority is to encourage developments which produce renewable energy, it is acknowledged that there must be a positive policy framework in place to assess non-renewable energy proposals. In the absence of any further advice or guidance from the Welsh Government on this issue, the Council considers that the deposit LDP is appropriately worded.

Qn3a. Having regard to the Council’s response, what specific wording changes do OVCR and CCW seek?

The Council will await the response from OVCR and CCW. However, it is receptive to amending the first sentence of paragraph 4.6.13. An appropriate alternative may be: “It is possible that the extraction of underground gases as a source of energy can take place with minimal environmental impacts that can be mitigated against by appropriate safeguarding and monitoring measures” (See also suggested changes below)

Qn3b. As Coal Bed Methane extraction is a form of mineral development and not an issue of energy generation, efficiency or conservation, should the related text at paragraphs 4.6.13-4.6.18 be moved to follow Policy ENV11?

Even though the extraction of Coal Bed Methane is normally used for the generation of energy, the Council considers that to move the text of paragraphs 4.6.13 – 4.6.18 to follow Policy ENV11 to be a sensible suggestion.

4. SHALE GAS

- 4.1 In written representations the Environment Agency Wales supports Policy ENV11 Mineral Development but suggests amending the text to:

*“All mineral related developments, including coal bed methane **and shale gas extraction**, will be permitted only where all of the following criteria are satisfied:*

1) Measures... reference to:

a) Pollution or disturbance to **the quality of all surface water bodies; groundwater** or surface water supply or drainage. (61.30)

- 4.2 The Council responds that shale gas extraction is a mineral related development and would therefore be considered in the context of Policy ENV11. This issue does not impact on the soundness of the LDP. The change in wording to criteria 1(a) does not significantly add to its meaning and the Council feels EV11 covers this issue adequately.

Qn3c. Should shale gas extraction be distinguished from coal bed methane and should it be referred to in the policies or text?

The Council considers that the policy as written is sound. Reference to coal bed methane was included for the avoidance of doubt as to the policies coverage as it is a topical issue. The term 'all mineral development' covers both types of development in any event.

The policy could be amended as the Environment Agency request. Paragraphs 4.6.13 – 4.6.18 (which the Council has previously agreed should be moved to support policy ENV11) would need to be amended to as follows:

Underground Gas Extraction

It is possible that the extraction of underground gases as a source of energy can take place with minimal environmental impacts that can be mitigated against by appropriate safeguarding and monitoring measures. The impacts are entirely different from those arising from opencast or deep coal mining operations.

The location and siting of surface well sites need to be carefully chosen. This involves a sieving process which identifies all relevant designations from the Local Development Plan and consultation with relevant stakeholders. The process is designed to locate the proposed site in the most appropriate location taking into account all relevant designations and sensitive areas.

Current and emerging technologies in drilling now allows gas resources to be explored and developed horizontally in the seam or strata without having to be vertically above the target areas of coal or shale. Operations at depth can therefore be close to sensitive areas, without creating adverse effects on the basis that surface operations, including drilling equipment and compounds can be located away from potentially sensitive areas.

Proposals for underground gas extraction will therefore be assessed against Policy SP2: Sustainable Place Making, as well as other policies from the Environment chapter, to ensure that they do not adversely affect environmental designations or amenity. Policy ENV11 provides additional policy guidance on mineral extraction which would relate to such proposals.

With the abundance of coal resources, coalbed methane (CBM) is present in potentially commercial quantities in the northern part of the Borough. Several exploratory test boreholes have been drilled over the last 10 years but none

have progressed to a full production level to-date. Because CBM is a finite resource it is not considered to be a source of renewable energy and therefore not truly sustainable. Nonetheless, its benefits and efficiency as a source of energy when compared to other fossil fuels and the ability to combine CBM operations with carbon capture are still being developed and evaluated and this may prove useful in reducing levels of CO2 and hence reduce climate change in the future to some degree. All CBM proposals will be considered against mineral criteria based policy in ENV11 and determined on a case by case basis.

Similarly, shale gas extraction generates a number of considerations regarding potential environmental impact but the route of the underground boreholes may be drilled both vertically and laterally to distances in excess of 0.5km from the surface installation. Such extraction consists of the pumping of water /sand/ chemicals at high pressure to release gas from the shales. Shale strata is often found interbedded with coal seams and can be in close proximity to aquifers/groundwater which can generate the potential for pollution. Detailed underground impact assessment would therefore be a fundamental requirement of any application.

It should be noted that the defined Coal safeguarding areas, as shown on the LDP Proposals Map, would protect coalbed methane and other gas resources to some degree. Nonetheless as the extent of the gas resource cannot be accurately defined, it cannot be shown as a separate resource on the Proposals Map.

The Council consider that the suggested change to criterion 1a is superfluous as water quality issues are covered by the terms 'pollution or disturbance'. The criterion as proposed does not flow well.