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Eich cyf : Your ref
Ein cyf : Our ref APP30-01-004
Dyddiad : Date **25 November 2008**

Dear Rhian Kyte

Caerphilly Local Development Plan – Deposit Version

Thank you for your recent correspondence and copies of the deposit LDP and accompanying documentation.

We recognise your achievement in being the first local planning authority to advertise a deposit LDP, and to do so in accordance with the original timetable of your Delivery Agreement. We also appreciate the extensive technical work undertaken with regard to the evidence base for the deposit LDP.

The matter of whether a plan is considered 'sound' will be for the appointed Planning Inspector to determine. We have considered the Deposit LDP in accordance with the consistency and coherence & effectiveness tests, and principally in accordance with whether satisfactory regard has been given to national planning policy (test C2). Our representations are separated into 4 categories which are supported with more detail in the attached annex.

- A. Objection under soundness tests C2, CE2: A fundamental issue regards the adequacy of the **affordable housing target (SP17)** that we consider presents a significant degree of risk for the authority if these concerns are not addressed prior to submission stage, and may have implications for the plan's strategy.
- B. Objections under soundness tests C2, CE1, CE2: Matters where it appears that the deposit plan has not satisfactorily translated national policy down to the local level and there may be tensions within the plan, namely:



- i. **allocations for highly vulnerable development in flood zone C2 areas** (despite policy SP8),
 - ii. **minerals safeguarding and operations** (despite policy SP9)
 - iii. **waste management** (SP11)
 - iv. **gypsy & traveller site provision** (CW23)
- C. In relation to soundness tests CE2, CE3, CE4: whilst not considered to be fundamental to the soundness of the LDP, we consider there to be a lack of certainty or clarity on the following matters which we consider we can usefully draw to your attention to enable you to consider how they might be better demonstrated, that:
- i. the strategy and policies are **deliverable**,
 - ii. the plan is **flexible** to enable it to deal with changing circumstances,
 - iii. the mechanisms for **implementation** and **monitoring** are sufficiently clear.
- D. Matters relating to clarity of the plan generally which we consider may be of assistance to your authority and to the Inspector in considering suitable changes.

We have raised these issues with you on previous occasions. It is for your authority to ensure that the LDP is sound when submitted for examination and it will be for the Inspector to determine how the examination proceeds once submitted.

We strongly advise that you consider how you could maximise the potential of your LDP being considered 'sound' through the examination process. If you would like to **meet at an early date** to discuss any matters arising from our formal response to your deposit LDP, please contact me.

Yours sincerely

Mark Newey
Joint Head of Plans, Management and Performance
Welsh Assembly Government

annex

Annex to WAG letter (25 November 2008) in response to Caerphilly Deposit LDP

A. Objection under soundness tests C2, CE2: A fundamental issue regards the adequacy of the affordable housing target (SP17) that we consider presents a significant degree of risk for the authority if these concerns are not addressed prior to submission stage, and may have implications for the plan's strategy.

Policy SP17 – Affordable Housing Target (page 48)

'Planning Policy Wales' (as amended by *Ministerial interim Planning Policy Statement 01/2006 Housing*) requires local planning authorities to make appropriate provision for affordable housing (paragraph 9.1.2). Increased provision of affordable housing is a key policy goal for the Assembly Government (as expressed in section 5.1 of *'One Wales – a progressive agenda for the government of Wales', June 2007*) and meeting the housing requirements of all sections of the population is a stated key objective of the LDP (key objective number 9 – page 24).

The affordable housing target (“approximately 1,360 affordable dwellings”) falls significantly short of the need identified in the Council's 2007 *Local Housing Market Assessment (LHMA)* for 516 homes per annum (i.e. 7,740 over the plan period). The LDP itself fails to quantify the actual level of identified need for affordable housing (paragraph 9.2.23 of *Planning Policy Wales*), but this information is provided in section 6 of the LDP Background Paper 6 *'Population and Housing'* (i.e. need is identified as 516 affordable dwellings per annum, and the LDP proposes provision of 91 per annum – para 6.9.1).

Whilst the Council considers this target to reflect *'what can realistically be delivered through the planning system'* (para 6.9.1 of Background Paper 6), the options for increasing the affordable housing target (as set out in section 6.9 of the LDP Background Paper 6) should be re-considered in order to provide additional affordable housing in those areas where the greatest need has been identified in the LHMA, particularly regarding the allocation of land for housing. Such a re-consideration could test the flexibility of the strategy and consider the implications.

The **tension** between this response relating to affordable housing provision and our response relating to allocations for highly vulnerable development in flood zone C2 areas is recognised. However, it is considered that both must be managed and appropriate alternatives found. Zone C is unlikely to be an appropriate location for affordable housing, given that the ability of occupants to cope with future flooding is likely to be more limited.

B. Objections under soundness tests C2, CE1, CE2: Matters where it appears that the deposit plan has not satisfactorily translated national policy down to the local level and there may be tensions within the plan, namely:

i. allocations for highly vulnerable development in flood zone C2 areas

To accord with the requirements of *'Planning Policy Wales'* paragraph 13.2.3 and paragraph 6.2 of *TAN 15: Development and Flood Risk*, the LDP strategy and policies should be based upon a move away from continued reliance on engineering solutions to flooding, in the recognition that risk can never be eliminated despite mitigation measures and in recognition of climate change. These key principles, along with the preference for avoiding development in the flood plain have shaped *TAN 15* and should in turn shape local policy and action through LDPs.

However, whilst the LDP Background Paper 13 *'Broad Level Flood Risk Assessment'* outlines how the principles of national planning policy have been embraced in site selection,

this element of national policy is not referenced, and would appear not to have been considered.

The overall approach towards flood risk outlined in the LDP Background Paper appears to be appropriate and in accord with the aspirations of national policy. Many candidate sites have been dismissed by the Council for reasons related to zone C considerations along with other factors which will have counselled against releasing these sites. However, planning consents for reasonably large scale development have been forthcoming in the floodplain despite national policy, and sites where consents are still subject to section 106 agreements remain as default allocations. Whilst these permissions cannot, for a number of reasons, be reviewed as part of the plan, nevertheless, we consider **cumulative releases of land for development on the floodplain is a matter of strategic concern** which would have implications at the catchment scale and will add to the burden faced by the public purse in terms of protecting communities in the future.

Whilst the LDP Background Paper 13 is on the whole commended, it is however, **considered that the key national policy test (paragraph 6.2 TAN 15) that “highly vulnerable development in C2 should not be permitted” has not been given adequate weight in deriving the outcomes from the broad level assessment.** This may be a result of policy SP8 which does not reflect the two tests contained in national policy, rather it only applies the C1 test to the whole of zone C (also see general comment on SP8 below).

The reasoning behind this conclusion relates to the thrust of national policy outlined above and reinforced by the context of climate change and the potential consequences of continued and substantial development of the undefended floodplain at the catchment scale. It is interesting to note that 8.5% of the total area of the County Borough is zone C and that 7.5% of this is actually C2 and that more than 10% of the total residential allocations are being made in zone C. In *‘One Wales’ (2007)* the Welsh Assembly Government acknowledged that Climate Change is now the greatest threat facing humanity. With studies predicting increases in the volume and intensity of rainfall, rising sea levels and greater risks from surface water, more frequent flooding events are becoming inevitable (*UK Climate Impacts Programme 2006 - new predictions expected Spring 2009*).

Wales already faces significant flood and coastal risks with around 170,000 properties at risk of flooding, together with commercial and industrial property and significant infrastructure. The estimated value of assets at risk is between £8-12 billion and while we cannot totally eradicate or prevent flooding, as risks increase we need to reconsider our approaches to addressing them. Refer to Environment Agency for assessment of properties at risk on the floodplain; *Foresight Future Flooding (2004)*, Office of Science and Technology, UK Government.

The **tension** with our response relating to affordable housing provision is recognised. However, it is considered that both must be managed and appropriate alternatives found. Zone C is unlikely to be an appropriate location for affordable housing, given that the ability of occupants to cope with future flooding is likely to be more limited.

Should it be considered on examination that the plan can retain these allocations in zone C2, then at least the following action should be taken:-

On the basis that infrastructure and mitigation to manage flood risk are considered to be of strategic importance, measures which seek to enhance resilience for those sites and in the wider community should be identified as part of Policy SP7 Planning Obligations.

Comment on policy SP8 Flood Risk - This is considered to be a strategic objective rather than a strategic policy. It is drafted as statement relating to plan preparation, rather than a policy against which future proposals will be considered. As currently drafted the objective

does not reflect the two tests contained in national policy, rather it only applies the C1 test to the whole of zone C. However, if it were to be redrafted as a policy it should not merely repeat national planning policy, nor be more generic than national planning policy.

ii. minerals safeguarding and operations

Policies SP9 Minerals Safeguarding (page 44) & CW24 Locational Constraints Minerals (page 66)

To accord with the requirements of *'Minerals Planning Policy Wales'* paragraph 13, potential mineral resources must be safeguarded from other types of permanent development which would either sterilise them or hinder extraction, and the proposals map must identify areas to be safeguarded. Policy SP9 fails to adequately do this.

Relevant environmental, planning and transportation considerations / impact on the landscape and sites of ecological interest: Policy SP9 and paragraph 1.69 propose that safeguarding is affected by relevant environmental, planning and transportation considerations – which the policy justification fails to clarify; and that the need for mineral safeguarding is 'balanced' against the potential impact on the landscape and sites of ecological interest - however, such impacts, other than international and national designations for coal, should not be taken into account in determining the safeguarding area. **Sand and gravel safeguarding** areas should not be reduced by buffer zones. The *Sand and Gravel Supply for South East Wales - Position Statement (WAG, December 2002)* states that there are limited resources regionally for sand and gravel and therefore the *MTAN: Aggregates (2004)* included a map (see paragraph 32, 4th bullet and page 21 of the MTAN) showing the areas that should be safeguarded. Caerphilly CBC has reduced these areas without providing any clear justification.

Hard rock resources safeguarding – Whilst policy SP9 (and the LDP Background Paper 5 *'Minerals'*) states that hard rock resources will be safeguarded, the proposals map does not show any safeguarding of hard rock resources.

Policy SP9 should refer to known 'resources' rather than 'reserves', and paragraph 1.69 should refer to the proposals map rather than the constraints map.

Policies SP9 Minerals Safeguarding (page 44) & MN2 Minerals Safeguarding (page 115)

Omission to safeguard coal resource in buffer zones – To accord with the requirements of *'Minerals Planning Policy Wales'* para 13 and the 1st and 2nd consultations (2006 and 2008 respectively) on the draft *Coal Mineral Technical Advice Note (MTAN)*, the area shown for coal safeguarding on the proposals map should also safeguard the "buffer zone" (see paragraph 2.12 and section 6 of the 2nd consultation on the draft *Coal MTAN*).

This omission leads to conflict, where development is proposed in areas where coal should be safeguarded. Examples would be the areas designated LE4.11 (page 123) and CF1.34 (page 121) at Bedwas. The LDP should state that the leisure facilities proposed for LE4.11 might not sterilise the coal if that is considered to be the case; however, CF134, is allocated for a new school which is likely to sterilise the resource.

The steps set out in section 6 of the draft *Coal MTAN (2nd consultation)* should be followed. Discussion in LDP Appendix 14 should refer to coal safeguarding.

Omission – where coal operations would not be acceptable - To accord with the requirements of *'Minerals Planning Policy Wales'* para 15 and the 1st and 2nd consultations on the draft *Coal Mineral Technical Advice Note (MTAN)* (paras 34-45 and 2.11-17 respectively), the Proposals Map must show the areas where coal operations would not be acceptable, with supporting policy and text in the written statement.

There is insufficient evidence in the LDP Background Paper 5 *'Minerals'* to justify the exclusion of all coal. It is not acceptable to exclude local nature conservation and landscape designations, and there is no evidence provided as to cumulative effect which

might, for example, include air quality issues or traffic movements. Areas to the South of Romney are identified as unconstrained in the Background Paper, and should be identified in the LDP.

Omission – Minerals buffer zones for dormant mineral sites - To accord with the requirements of *'Minerals Planning Policy Wales'* paragraph 40 and *MTAN: Aggregates* paragraphs 70-71, buffer zones should be defined around all mineral sites including dormant (inactive sites) and the LDP should set out a strategy for the future use of all dormant mineral sites as specified in paragraph 19 of *MPPW*.

iii. waste management

Omission - Context for Waste Management - The background paper covers the context on the various European Directives and the Regional Waste Plans. The existing facilities in the County Borough are outlined, however there are no other contextual issues included in the LDP which are specific to Caerphilly's waste management and waste planning circumstances. The LDP does not say how waste arisings in Caerphilly are currently managed; how they will continue to be managed until facilities come forward; nor is it clear what role the facilities which they have identified in the LDP Background Paper 4 *'Waste Management'* play as part of an integrated network of facilities. Whilst the context provided by the Regional Waste Plan is clearly important and this is recognised in the LDP, the absence of any analysis or commentary about how it relates specifically to the current context for waste management and waste planning in Caerphilly is considered to be an omission.

Policy SP11 Waste Management (page 45)

National Planning Policy Clarification Note (CL-04-04) *'Unitary Development Plans – Waste Policies Hazardous Waste Planning Applications'* (May 2004) sets out the minimum guidance to future waste management development that the Welsh Assembly Government is likely to find acceptable in development plans.

Policy SP11 gives strong support for B2 general industrial estates being suitable for waste management facilities and for the need to provide for facilities. It is recognised that there is a balance between providing a steer to the market whilst maintaining flexibility of choice. Where sites have not been identified national planning policy in the Policy Clarification Note (CL-04-04) says that the most suitable sites for waste management facilities will be general industrial areas. The Policy Clarification Note adds that a B2 policy approach will be acceptable provided there is enough capacity within existing or future industrial sites to accommodate the waste management facilities required to accord with the Regional Waste Plan (RWP).

Land take figures derived from the RWP assessments have been used as the basis for establishing need in land use terms. On this basis sufficient total amounts of land in B2/major industrial areas (77.8 ha) appear to be present to meet the ranges of land take identified in the RWP (up to 10ha), particularly given that take up of employment land is low. However, the only parameter identified by the Council which has been used to demonstrate that this capacity exists is the identification of B2 locations which contain vacant land greater than 1ha.

It is not clear whether this means that the 1ha availability is a total figure, or whether this means that there are parcels of land within these locations which are greater than 1ha. This is an important factor in demonstrating that a genuine choice of suitable sites exists and thereby demonstrating that the B2 locations have enough capacity to accommodate facilities identified as being needed through the RWP. This is compounded by the fact that

some of these locations include existing B2 locations protected for B2 use as well as new allocations.

If the 1ha figure is a total figure, then this does not provide sufficient demonstration that the capacity that exists is consistent with delivering requirements advocated in the RWP. In other words it does not demonstrate whether any of the locations are genuinely suitable for waste management. For example, are there land parcels within these locations of sufficient size to accommodate facilities to serve more than one authority, are there locations which could fulfil co-location opportunities, or is a particular location best suited to local type facilities?

Given other competing priorities for employment land, whilst flexibility in choice of employment land is identified at an overall level there is a need to demonstrate that there is actually capacity to meet requirements identified in the RWP and hence demonstrate that delivery through the B2 policy is realistic. It may be that this could be achieved by stating what those locations already identified contain. For example, do they actually contain a range of land parcels of different sizes which demonstrates suitability for different types of facilities. The RWP identifies typical land take for different facilities and considers what the need would be for a network of facilities under various waste management options. These figures could have been utilised or refined in liaison with waste management colleagues.

WM1.1 Cwmbargoed Washery Site (page 74)

The identification of sites for waste management facilities to serve more than one authority is supported. However the washery is still needed to support the Ffos-y-fran coal recovery project and this site is unlikely to be a realistic prospect for waste management facilities during the period of the plan (to 2021). Whilst it is considered that this site should remain in the plan as a long term prospect the fact that it may not come forward during the plan period adds further urgency to the need to demonstrate that the B2 land is actually suitable, as well as available. Only then would the plan provide the expected level of certainty for the delivery of sites for waste management during the plan period.

iv. gypsy & traveller site provision

Policy CW23 Locational Constraints-Gypsy and Traveller Caravan Sites, and paragraph 2.45 (page66)

Transit sites: Paragraph 9.5 of LDP Background Paper 6 '*Population and Housing*' recognises that there may some transient Gypsy and Traveller population moving through the local authority boundaries. In these circumstances *WAG Circular 30/2007* makes clear that there may be a need to provide transit sites. The Circular also provides detailed advice on how to make direct contact with Gypsies and Travellers moving within the local authority and adjoining local authority areas in order to assess needs as required by Sections 225 and 226 of the Housing Act 2004. These needs must then be addressed from the start of the LDP process. Appendix F of the *Local Housing Market Assessment Guide (WAG)* provides substantive guidance. Insufficient evidence is provided to show that such needs have been adequately assessed and that locations for transit sites have been identified and considered.

Criteria based policy CW 23 – paragraph 2.45 needs to be brought in line with paragraphs 26 and 35 of *WAG Circular 30/2007: 'Planning for Gypsy and Traveller Caravan Sites'* with regard to suitability of rural locations and that local natural heritage designations should not be used in themselves to refuse planning permission.

C. In relation to soundness tests CE2, CE3, CE4: whilst not considered to be fundamental to the soundness of the LDP, we consider there to be a lack of certainty or clarity on the following matters which we consider we can usefully draw to your attention to enable you to consider how they might be better demonstrated, that:

- the strategy and policies are **deliverable**,
- the plan is **flexible** to enable it to deal with changing circumstances,
- the mechanisms for **implementation** and **monitoring** are sufficiently clear.

The plan would benefit from a more explicit demonstration of how and when development will be realised over its lifetime, greater clarity on the timing, linkages to infrastructure and funding sources, albeit at a strategic scale, would add clarity and certainty.

The monitoring framework should be embedded in the plan with greater transparency and links to SMART objectives for indicating when strategy or policy review will be necessary.

D. Matters relating to clarity of the plan generally which we consider may be of assistance to your authority and to the Inspector in considering suitable changes.

Potential discrepancy – historic/built environment.

Cadw and the Assembly Government seek to ensure that, where the opportunity arises, the enhancement of the historic/built environment should be sought and achieved. Consider that a reference to the enhancement of the historic/built environment is added to policy **SP6 Place Making** (page 42) as a follow on from key objective 24 and to aid clarity.

Employment land forecasting & Policy EM1 Employment Allocations (pages 76, 96, 117)

An over provision of employment land is proposed by the council and justified by referencing its preferred growth scenario and need for flexible portfolio to meet changing economic trends (LDP Background Paper 7 *'Employment'* paragraphs 4.1.2, 4.1.3, 5.2.2, 5.2.10).

However, the employment land forecasting methodology uses the gross forecast demand by sector, rather than a net assumption; the latter is required given that some sectors will not require property at 100%, for example, Transport and Communications. Therefore the existing commitments (paragraph 7.1.1 of LDP Background Paper 7) probably inflate requirements which are already generous. The analysis in LDP Background Paper 7 *'Employment'* needs to be expanded.

Cumulative impact: it is not clear what discussion has been had between neighbouring local planning authorities concerning the implications of emerging LDP growth strategies and the resulting over-provision of employment land.

Policy SP10 Renewable Energy (page 42) **& paragraph 1.70**

Suggest further clarification is required as to what the 15% (3rd sentence of para 1.70) relates to, what technologies can be included (i.e. low carbon technologies - are these energy efficiency measures), how it will be implemented and what monitoring arrangements are in place.

Repetition of national planning policy without translating it to local level

e.g. SP10, SP22, CW7.

Design statements will become a mandatory requirement in 2009 and will therefore not require a policy in the LDP unless there is distinctive local policy.

Policy drafting – not drafted as land-use policy

e.g. SP8, CW26.