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Torfaen County Borough Council
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Your ref: RM/SDH/D-LDP
Our ref: qA930124/1
Date: 27 May 2011

Dear Rob

**Torfaen Local Development Plan – Deposit Version
: Response**

Thank you for your original correspondence of 25th March which advised that the consultation period would close on 13th May; and for the subsequent correspondence of 13th April which extended the period to 30th May “to give extra time due to public holidays and ensure all LDP documents are available for inspection for the statutory 6 weeks”. We received the requested copies of the deposit local development plan (LDP) and associated documentation over a protracted period. To place the LDP on deposit without the associated documentation was very unfortunate and concerning given that we understood from previous correspondence, including that between the Minister for Environment, Sustainability and Housing and your Leader and Chief Executive, that for some time the only outstanding matter related to the LDP was additional evidence to support the Cwmbran Town Centre Eastern Strip South. However, the action you took to ensure consultees had the full 6-week period when all the documentation was available should be sufficient to satisfy the Regulations.

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/coherence and 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: Fundamental issues that we consider present a significant degree of risk for the authority if not addressed prior to submission stage, and may have implications for the plan’s strategy:

- Deliverability: Strategic Action Areas



- 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. Scale and location of growth**
 - ii. Affordable housing**
 - iii. Gypsy traveller sites**
 - iv. Employment: Regional Employment Allocations**
 - v. Strategic Opportunity Areas**
- 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 plan is **flexible** to enable it to deal with changing circumstances
 - ii.** the mechanisms for **implementation** and **monitoring** are sufficiently clear
 - iii. Minerals**
 - iv. Waste**
 - v. Green Wedges**
- 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.
- i. Policy Wording**
 - ii. Housing and Employment Allocations Statistics**
 - iii. Retailing / Town Centres**
 - iv. Historic Environment**
 - v. Environment / Landscape / Biodiversity**
 - vi. Maps and Diagrams**

We have raised some of 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 to discuss any matters arising from our formal response to your deposit LDP, please contact me.

Yours sincerely

Mark Newey
Head of Plans Branch
Welsh Assembly Government

Annex

A. Objection under soundness tests C2, CE2: Fundamental issues that we consider present a significant degree of risk for the authority if not addressed prior to submission stage, and may have implications for the plan's strategy:

A.i. Deliverability: Strategic Action Areas (SAAs)

The Deposit plan proposes 7 Strategic Action Areas (policies SAA1-7; Ch.7) for large scale mixed use development schemes. Whilst the Welsh Government wishes to support the aspirations of the plans strategy seeking the regeneration potential of these sites, we consider that the plan and its associated supporting documentation does not provide convincing evidence that the SAAs are deliverable within the plan period. From a consideration of the associated risks where these are given (especially those outlined in the Deposit plan's Appendix 1 'Details of LDP Allocations'), some sites appear to be at greater risk than others.

There are several key matters that need to be dealt with when considering the SAAs and which, when combined, suggest that the strategy's reliance on the SAAs is a significant risk:

- How **constraints** to development can be overcome (key ones are contamination, flood risk and land reclamation), and certainty that they can be dealt with to deliver the required development within the plan period in each of the SAAs. (e.g. see below in relation to SAA1.)

- Lack of **timescales** and information on the **level of intended development** and **phasing** for development of the 7 SAAs over the plan period itself as well as what would then remain for development beyond the plan period. Whilst there is some information in the Deposit plan - Appendix 1 'Details of LDP Allocations' and the Housing and Population Background Paper's Appendices 2&4, the overall level of information is vague and inadequate the main body of the LDP should contain summary information on these key aspects.

- Lack of available worked up **Masterplans / Development Frameworks** for the SAAs to guide developers and future applications. Paragraph 7.1.1 says Development Frameworks are to be prepared by developers to the satisfaction of the Council in advance of submission of a planning application, and adopted as interim guidance until they are adopted as SPG. The timing suggests that Frameworks will be adopted in advance of LDP adoption which implies that permissions are likely to be granted before plan adoption. Frameworks have not been included in the Deposit document package. If the plan is reliant on such sites coming forward they should be to add clarity and certainty, demonstrating deliverability of the plan. The LDP is key to the plan-led system, so such Frameworks should be part of the LDP rather than decanted to a separate process outside the remit of the plan.

- Lack of any **mapping information** on the proposals map other than the boundaries of the sites, with no **indicative / concept diagrams** within the written statement to indicate basic content of sites, mix of uses, costs/viability assessments, delivery trajectories or key access points.

- How adequate levels of **affordable housing** will be delivered in these SAAs. Delivery of affordable housing is a key Government priority as well as reflecting that it is a stated key

issue for the LDP; it follows that the plan should maximise delivery. However, it is not clear as to the percentage of affordable housing that could be delivered on these sites and whether delivery is viable given the uncertainties relating to the sites and the potential high development costs due to significant constraints relating to the sites.

- How **infrastructure** will be funded and delivered for the large scale mixed use schemes.

One specific example relates to **Policy SAA1 Eastern Strip Central SAA, Cwmbran** (page 59) for which there is no mention of a Development Framework, and for which the plan advises that contamination and flood risk constraints need to be dealt with in an application (paras 7.2.3, 7.2.7). This is despite the additional work undertaken in relation to the ArvinMeritor site that has delayed finalising the plan for deposit. The plan has not clearly demonstrated that in principle the issues that would affect successful delivery within the plan period can be resolved. Whilst there is information on the elements a proposal would need to address at paragraph 7.2.6, there is no indicative diagram, no information on timescales for bringing the development, nor any indication of phasing.

A second example relates to **Policy SAA7 Llanfrechfa Grange SAA, Cwmbran** (page 66) which includes the provision of a new link road to the B4236 Caerleon Road, allocated by policy T1/4 (page 97). The necessity for this road scheme is not apparent, nor is its relationship to other infrastructure costs required to bring forward development and how this potentially considerably increases the cost of developing the site. If the scale of road improvements were reduced this could in turn reduce development costs or enable greater capacity to focus on alternatives, i.e. affordable housing. Furthermore, the plan doesn't clarify whether a decision has yet been made in relation to the location of the Specialist and Critical Care Centre, which appears to be the driver for development.

B. Objections under soundness tests C2, CE1, and 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:

B.i. Scale and Location of Growth

- Scale and Location of Growth: Housing Delivery

The justification for deviating from Welsh Government's 2008 based projections and the plan's provision of **5000** new dwellings is provided in the Background Paper, summarised at paragraph 8.1. One of the key reasons given for the level of provision is the allocation of **2,430** dwellings in the 7 Strategic Action Areas sites to aid regeneration and revitalise the area, as set out in the LDP strategy and wider South East Capital Region.

Whilst we wish to support the local authority's aspiration for regeneration and growth, as set out in the "mid to high" housing provision of **6000** dwellings (to deliver **5,000** dwellings including an additional 1,000 units for choice/flexibility) growth must be deliverable. For Torfaen, the scale of growth is dependent upon the successful delivery of a significant proportion of the Strategic Action Areas (see category A objection on delivery of the SAAs) as well as a significant increase in build rates.

Further clarity is required on the relationship between growth levels and what is appropriate to achieve regeneration, particularly taking into account delivery issues, build rates and the reliance on specific site with certain unknowns.

- **Scale and Location of Growth: Settlement Strategy**

The Deposit plan indicates that development will reflect the **role, scale and function of individual settlements** (eg 4.1.1, 5.4.1). However, the basis for the choices made is not transparent within the documentation; there is no specific Scale & Location of Growth Background Paper that would assist.

Policy S5 Housing splits the 5000 provision into housing sub-market areas: North – 675 (i.e. 13.5%); Pontypool – 1,925 (i.e. 38.5%); Cwmbran - 2,400 (i.e. 48%) (figures include small sites – 300; windfall - 289; net demolition allowances). The policy justification at 5.5.1 justifies this **spatial distribution**, relying upon the Joint Local Housing Market Assessment 2006 (2010 JHMA Update) and national policy requirement for a range and choice of locations. The percentage split in the policy is the same as that in the 5-year requirement Figure 21 of the JLHMA (page 22).

It is not clear how the spatial split to meet the 5-year requirement has been applied to the full plan period to reflect the role, scale and function of settlements and to support the allocations of the Strategic Action Areas.

Urban Boundaries are defined by Policy S1 (+ c/s ref to PPW) to prevent inappropriate development in the countryside. However, the basis for the choice of which settlements have defined boundaries is not clear. (See also in relation our objections C.v. Green Wedges relating to South Sebastopol, and objection B.iv. Employment relating to EET4/1)

It is also not clear as to how the extra 1,000 dwelling allowance has been split between the 3 sub-market areas.

B.ii. Affordable Housing

- **Affordable Housing: Need for Affordable Housing**

Policy H4 Affordable Housing: paragraph 9.5.2 relating to the level of need for affordable housing appears confused and lacks clarity. Need is given as a percentage of new housing based on the JLHMA 2010 Update giving a regional target; but this paragraph also gives a different Torfaen percentage as well as a Torfaen target expressed as being based on the percentage of the remaining new dwelling requirement of **4,197**: one option is **2,140**, the favoured one is **1,343**. It is not clear whether the basis of this figure is reasonable and appropriate, including whether it takes account of backlog and current need as well as anticipated need over the plan period.

- **Affordable Housing: Affordable Housing Target**

TAN2 ' Planning and Affordable Housing' states that development plans must include an authority-wide target for affordable housing to be provided through the planning system based on the housing need identified in the LHMA and identify the expected contributions that the policy approaches identified in the development plan will make to meeting this target (paragraph 9.1).

Policy H4 Affordable Housing: the target stated in the policy is “**approximately 891**” to be delivered by the LDP through planning obligations on known large sites between 2010 and 2021. Given that the strategic housing policy S5 gives a housing target for the plan period of 2006 to 2021, it would be more consistent if the same period was covered by policy H4. In addition, the definition of ‘large sites’ should be made clear in the plan at paragraph 9.5.4; we assume it is 10+ units as in AHVS 2011.

The target should reflect an LDP’s attempt to **optimise the opportunity for affordable housing**. Planning Policy Wales paragraph 9.2.16 states that, ‘in principle all new market housing may contribute to meeting the need for affordable housing’. However, the Policy H4 target does not include certain sources specified in paragraph 9.5.3 and 9.5.4, such as small sites and windfall sites; neither is there any contribution from small sites or exception site. It is therefore not clear that Torfaen CBC has demonstrated that it has maximised provision of affordable housing given the high levels of identified need in the evidence base and fact that it is identified as a key issue.

We note that a Torfaen **Affordable Housing Viability Study** was carried out, with stakeholder involvement (Affordable Housing Viability Study March2010; AHDS Background Paper). The affordable housing viability on the Strategic Action Areas is queried in our category A objection.

Thresholds and Local Target Percentages by Housing Sub Market Areas are provided in Policy H4 (Nth 10%; Pontypool 25%; Cwmbran W&N 20%; Cwmbran E&S 30%; subject to change upwards if SHG available, or +/- 5% via SPG if house prices / costs shown to have changed in monitoring or AHVS update.) The basis for these percentages should be clarified in the plan. We note that in the planning obligations policy (S8) that affordable housing is a priority. Reference in the policy justification should be made to the Council’s option to seek a higher percentage of up to 100% where need is high, the location suitable and provision viable.

B.iii. Gypsy Traveller Sites

Need and Provision: There appears to be a degree of uncertainty and lack of clarification within the plan and the supporting evidence base over both the level of need and how that need will be met in the plan period. The **Housing and Population Background Paper, March 2011** highlights the uncertainty and identifies that further work is being undertaken; paragraph 5.52:states: *“Meeting the remainder of the identified long term need for new pitches will however be dependant on the future of the Council owned gypsy traveller site at Shepherds Hill, Pontypool. The Council is currently undertaking a study to determine the future of the site and address concerns over ground stability and overcrowding. Once this work is completed, hopefully in June / July 2011, the Council will have a better picture on the total numbers of new pitches required and if there is a need to identify new site(s) within the County Borough. The Council expect to have identified how the total demand for new pitches will be met by the time the Deposit LDP is submitted to WG / The Planning Inspectorate for Examination in January 2012.”*

With regard to the level of **need** for Gypsy Traveller pitches, paragraph 9.8.1 of the Deposit LDP refers to the **Torfaen Gypsy Traveller Study, Oct’09** identifying need for 20-30 permanent pitches and a transit facility in the South East Wales sub region (whilst

paragraph 8.5 of that study says there is a need for 46 permanent pitches 2006-21). There is no reference in the LDP to the **LDP Background Paper Gypsy and Traveller Study Feb2011 Update** which identifies the 2011-2021 need for 18 new pitches / 2 new sites. It would be helpful to know exactly what the level of need actually is.

With regard to **provision**, there appear to be problems with the existing sites, namely overcrowding at the permanent site at Shepherds Hill and ground instability problems, whilst the Rose Cottage site at Cwmynyscoy, Pontypool is described in the Studies as being unauthorised with minimal on-site facilities and relatively poor access to local amenities. It should be made clear what level of existing provision is acceptable.

Policy H7 Gypsy & Traveller Site Allocation – allocates additional accommodation for an additional 10 permanent pitches at H7/1 Rose Cottage GTS, Cwmynyscoy, Pontypool. The reasoned justification identifies a need for 20-30 permanent pitches & a transit facility in the sub-region. It also refers to the instability at the Sheppard Hill site and the possible need to identify other permanent site(s). This policy raises four issues:

- clearly the **allocation is inadequate** for identified need and the plan should make adequate provision for identified need;
- it is not clear how additional accommodation, let alone existing accommodation, at the existing unauthorised site at **Rose Cottage** could be appropriate, unless the Council has dealt with that issue or is in the process of dealing with it;
- clarity over the future of the **Sheppard Hill** site should be dealt with in the policy;
- need for a South East Wales **transit site** is acknowledged at paragraph 9.8.1 and in the Studies, but no solution is provided other than a need for a regional study.

Policy H8 New Gypsy Traveller Site Proposals – aspects of the second criterion appear to duplicate the separate caravan site licensing system which is the detailed means of controlling the internal layout of individual sites. The use of “only be permitted” could be considered to be overly restrictive side (see paragraph 25 of and paragraphs 1-2 of Annex B to WG Circular 30/2007 ‘*Planning for Gypsy and Traveller Caravan Sites*’). The policy should more clearly apply to Gypsy Traveller caravan sites.

B.iv. Employment: Regional Employment Allocations

Policy EET4 Regional Employment Allocations (page 83) allocates two sites for regionally important employment developments. The allocation of these sites would only be appropriate if there is evidence of a reasonable degree of certainty that they can be delivered in the plan period; they are of an appropriate scale/location to meet need; there is a need over the plan period and for what market sector; there is no evidence of provided to support this.

In addition, the information in the **Employment Land Study Update Report April’11** (by DTZ) does raise some serious questions concerning the appropriateness of the **Craig Y Felin** allocation (**EET4/1**) for take up during the plan period; the Report identifies it for de-allocation given that the landowner is not bringing the site forward (page 35). The LDP itself is silent in relation to any significant issues that could prevent the bringing forward of this site during the plan period.

To include allocation **EET4/2 (Former Ty Coch Tip, Cwmbran)**, the existing Local Plan urban boundary and green wedge allocations have been amended. It is not clear why these allocations have been amended, on what basis and why there is a need for a regional employment site (see comments to EET4).

B.v. Strategic Opportunity Areas

The Deposit LDP provides a 'policy' relating to each of three identified Strategic Opportunity Areas (SOAs) (**polices SOA1-3** in Ch.8) and includes them on the proposals map. Each policy states that the SOA has not been allocated for development during the plan period but that it has potential for development in the future and that the issues surrounding future development should be clarified in the LDP. Paragraph 1.5.8 of the plan states that identified constraints mean that delivery of the three identified SOAs within the plan period is uncertain.

As drafted, these are not land-use policies but rather are statements of land potential. They should be deleted and removed from the proposals map until there is more certainty about their future, including how any allocation would relate the LDP strategy and land-use provisions.

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 it might be better demonstrated, that:

C.i&ii.

- the plan is **flexible** to enable it to deal with changing circumstances, but not overly flexible to undermine certainty;

- the mechanisms for **implementation** and **monitoring** are sufficiently clear and also sufficiently sensitive to provide an alert of any lack of activity in particular on key sites including at early pre-application stages. The monitoring framework should be part of the LDP rather than a supporting document to it.

C.iii. Minerals

Policy M1 Minerals Safeguarding (page 101) – It is not clear from the Deposit plan or the proposals map whether the extent of the safeguarded areas for the minerals resource includes any additional buffering areas. The LDP Minerals Background Paper refers to additions of a 200m aggregates and a 500m coal 'Resource Buffer Zone' as safeguarding margins around the resource (paragraphs 2.2.5/6 & 3.3.3(5) & 3.6.9). Safeguarding margins around safeguarded resources is not a requirement in national policy; we do not consider this concept suitable for mapping. (The use of the term 'buffer zones' in national minerals planning policy relates to permitted and proposed mineral workings.)

The criteria to policy M1 are given as alternative scenarios by the use of the link word 'or'; however, criteria b requires an overriding need for the proposed development, whereas criterion c does not. The policy needs redrafting to remove this anomaly; whilst the term 'overriding need', if retained, should be defined in the policy justification for clarity.

Policy M2 Minerals Applications & Coal Working Exclusion Areas (page 101) – This policy advises that applications will be determined against WG national planning policy. However, this is a statement of intended action rather than a land-use policy and so should be relocated to the text of the plan. Policy M2 also identifies Coal Working Exclusion Areas (CWEA) on the LDP constraints map; these areas should be identified on the proposals map rather than the constraints map as the latter is not part of the LDP.

C.iv. Waste

Policy W1 Strategic Waste Management / Resource Recovery Facilities (page 104) – This policy and its justification give the estimated land requirement for facilities as 3.5ha. Recycling facilities (Construction and Demolition (C&D) waste at the 2.0ha former Little Mill Brickworks site) shouldn't be counted as part of the residual capacity requirements in the Regional Waste Plan. The need is 5.5ha rather than 3.5 ha.

C.v. Green Wedges

Policy C1 Green Wedges (page 110) designates three green wedges at Cwmbran/Newport, Ponthir/Caerleon and Mamhilad/NewInn. Clarification should be given to the situation relating to **Cwmbran and Pontypool** and with consistency when compared to other green wedge designations. The proposals map shows all the land lying between these two settlements as allocation SAA6 South Sebastopol Strategic Action Area, and the whole of the area lying within one continuous urban boundary. Whilst it is correct that green wedges cannot be designated within urban boundaries, it is not clear why the settlements appear to merge into a single settlement with no distinction between the two settlements being maintained through the LDP when compared to the rationale for other designations, i.e. between Cwmbran and Newport. The WG is not objecting to the principle of identifying green wedges, rather to ensure there is consistency in the approach of the plan.

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.

D.i. Policy Wording

Caveats such as, 'subject to national planning considerations' and, 'subject to other relevant policies of the plan' (eg policies M2, M3, W2, CF3) is superfluous and should not be included in policies. The Written Statement already clarifies that planning decisions should be based on the plan as a whole and national policy (e.g. paragraph 1.11.4, 1.11.6).

D.ii. Housing and Employment Allocations Statistics

For clarification of allocation contributions, there should be two **simplified tables of statistics** at appropriate locations in the written statement showing:

- all **housing allocations** including SAA contributions & allowances for windfalls etc; and
- all **employment allocations** including regional sites & SAA contributions.

D.iii. Retailing / Town Centres

Policy S9 Retailing / Town Centres (page 53) - a cross-reference from the policy justification to the hierarchy given at paragraph 4.2.51 would assist clarity for plan users.

Policy RLT2 Town Centre Development in Cwmbran (page 87) – the allocation RLT2/1 should be shown on the proposals map

Policy RLT3 Retail Proposals Outside Established Centres (page 89) – this appears to repeat national policy without providing any locally distinctive policy.

D.iv. Historic Environment

- Cadw is concerned about inconsistent terminology within the LDP. The term historic environment is preferable to built heritage alone as it is a broader term. Where the terminology built heritage/ environment is used in the plan, the policies are about visible structures and there is no specific reference to undesignated archaeological sites nor to components of the historic landscape more generally. (The Sustainability Appraisal Report component 20: Historic and Built Environment says that the Historic and built environment will be reworded to Historic Environment.)

- Policy SAA5 British Strategic Action Area, paragraph 7.6.4, 7th bullet - Cadw advises a redraft from, 'the treatment of Listed Buildings ...', to 'conservation, and where possible, re-use of Listed Buildings

D.v. Environment / Landscape / Biodiversity

- **Policy BW1 General Policy – Development Proposals (page 56), Part B – Natural Environment** In order to assist in clarifying the plan's position in respect of European designations and the requirements of the Habitats Regulations to consider 'in-combination effects', paragraph 6.1.4 (and supporting information) could usefully clarify at the outset that although there are no European designations within the plan area boundary and how/what in-combination effects of activities/impacts arising from LDP policies for those areas that lie outside of the plan area have been addressed.

- **Policy C2 – Special Landscape Areas** (page 110) It is not clear as to how applicants will be required to, "demonstrate that the development proposal will not have an adverse impact on the unique characteristics of the SLA"; the unique characteristics are not clarified in the plan, related appendix or background paper.

- We note that the **Biodiversity** Background Paper is not scheduled for publication until September 2013 so cannot assist understanding of the content of the Deposit LDP during the plan's consultation period.

D.vi. Maps and Diagrams

- It would be useful for the plan to clarify its relationship with the existing and emerging LDPs of **neighbouring plan areas** with regard to the mapping of areas such as: Green Wedges (C1), Special Landscape Areas (C2) and Minerals Safeguarding Areas (M1).

- **Key Diagram** (p38) shows the borough boundary rather than plan area which should exclude the area within Brecon Beacons National Park. Its clarity could be improved by giving the meaning of the arrows, and naming the key settlements.
