

WELSH GOVERNMENT
Examination Hearing
Statement

Neath Port Talbot Local Development Plan

Matter 7: Environment and Resources

16 April 2015

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Key Issue: Do the policies and proposals on this matter achieve the relevant objectives of the LDP in a sustainable manner consistent with the WSP and national policy? Are they based on robust and credible evidence? Are they clear, reasonable and appropriate?

The Countryside and Undeveloped Coast

1. With regard to Policy EN 2, where are the features and characteristics for which each Special Landscape Area has been designated set out? Will the landscape study be available as SPG?

This is a matter for the local planning authority.

Environmental protection

2. Is the approach to flood risk consistent with national policy as set out in TAN 15?

As raised in our statement to session 2, we consider that the LDP should be amended to better reflect national planning policy in respect of flood risk. Planning Policy Wales (section 13.3) and TAN 15: Development and Flood Risk are clear that inappropriate development should not be located in areas defined as being of high flood hazard. TAN 15, at paragraph 6.2, states, *'in Zone C the tests outlined in sections 6 and 7 will be applied recognising, however, that highly vulnerable development...in Zone C2 should not be permitted'*, and at paragraph 10.8, states that *'sites in Zone C2 should not be allocated for highly vulnerable development'*. Highly vulnerable development (HVD) is defined in Figure 2 on page 7 of the TAN as *'all residential premises, public buildings, especially vulnerable industrial development, and waste disposal sites'*.

The Welsh Government's letter to Chief Planning Officers (January 2014) provides clarification on changes to the insurance industry flood cover and the implications for development. It states that new developments built after 2009 will be subject to

uncapped risk reflective premiums. Clearly the lack of certainty may mean that development does not get built because of this risk, resulting in those units not contributing towards the provision of a 5 year supply of housing and should be deleted from the housing provision. In addition, the letter also clarifies that the impact of climate change over the lifetime of development, including a flood event which has 0.1% (1-1000 chance) probability of occurrence should be considered.

We note there was discussion in respect of flooding issues at Harbourside which is subject to an action point. We will consider the issues paper when produced by the Council and comment in due course. In essence, **the LPA should be able to demonstrate that it has complied with national policy and demonstrate that all sites/allocations are deliverable within the plan period.**

3. With regard to flood risk, do the recently published Development Advice Maps (DAMs) have new implications for any allocations, other identified sites or policies?

The latest DAMs were published by the Welsh Government in January 2015. It is a matter for the local planning authority to assess the implications of these for their plan. No highly vulnerable development should be allocated in the flood plain.

Minerals

4. Is the policy framework sufficient to deal with all future proposals for coal mining including underground operations?

MTAN 2, paragraph 43 states:

“This advice (the *safeguarding of shallow coal resources*) does not safeguard coal which would be worked by underground methods. However, where the CA or the coal industry has knowledge of long term proposals for underground coal working, they should inform the MPA. This will enable any potential impacts to be considered for other proposals coming forward in the LDP.”

It is for the LPA to consider how they reflect this in their administrative area through a relevant policy. Whilst, the authority refers to ground stability in paragraph 5.3.80, a policy should require applications to be accompanied by a stability report to assess

the potential impact of land instability mitigation work (MTAN 2, paragraph 188). If there were to be a policy this should address this matter.

5. Should the tertiary surface coal resource be safeguarded under Policy M1? What would be the objective of such protection? Would it be supported by evidence and consistent with national policy?

No. National policy requires the LDP to safeguard primary and secondary coal resources on the proposals map, excluding international and national designations of environmental and cultural importance and settlements. (MTAN 2, paragraph 37). National policy does not require tertiary coal resources to be safeguarded. Minerals Technical Advice Note 2: Coal states that “the MPA should determine whether primary and secondary coal resource zones lie within its area; The BGS Resource Maps provide this information” (paragraph 36).

The safeguarding of tertiary resources would be incompatible and inconsistent with adjacent authorities.

6. Are Policies M1 and M2 sufficiently clear? Do they need rewording to be consistent with national policy?

In our deposit representation, we suggested that amendments be made to policy M1, criterion 1 and 4. The use of the term ‘value’ in criterion 1 is vague and the authority should add clarity through the reasoned justification. Criterion 4 should be redrafted to make it clear that the need for the development overrides the need to protect the resource, including a requirement for prior extraction. Currently, each criterion within the policy is a separate requirement, of which only one criterion needs to be satisfied.

Policy M2 should be reworded so that the exceptional circumstances where coal may be worked as set out in MTAN 2 (paragraph 49) are referred to in the main policy text rather than the reasoned justification (paragraph 5.3.71). This will add clarity to the policy.

As stated in our representation to the Focussed Changes, the land bank figure should be updated in the reasoned justification (paragraph 5.3.62) to policy SP17, to

be in line with the Regional Technical Statement 1st Review. The authority should specify the existing level of permitted reserves of crushed rock and state how many years supply this equates to, inline with the RTS 1st Review. The RTS 1st Review provides an updated policy position on the regional requirements of mineral planning covering a 25 year period up to 2036. This should be considered as a strategic document for the purposes of LDP preparation. The Minister for Housing and Regeneration (now the Minister for Natural Resources) issued a clarification letter on 25 July 2014 endorsing the Regional Technical Statement (RTS) 1st Review. The clarification letter supports the approach taken in the RTS 1st Review regarding the calculation of land bank for the purposes of the RTS apportionment process. Authorities should implement the recommendations of the revised RTS in their LDP.

7. Are mineral workings, mineral buffer zones and so on shown correctly on the Proposals Map?

We stated in our deposit representation that the authority should identify buffer zones around permitted and proposed mineral working up to the edge of the settlement boundaries. MPPW states that “within the buffer zone, there should be no new mineral extraction or new sensitive development, except where the site of the new development in relation to the mineral operation would be located within or on the far side of an existing built up area which already encroaches into the buffer zone” (MPPW, para 40). The application of buffer zones within settlement boundaries creates contradictory policy states as there is a presumption in favour of development within settlement boundaries (policy SC1), and the application of buffer zones within settlement boundaries sets a presumption against development. It is inappropriate to have opposing policies in the plan.

Can the authority please clarify whether the sandstone quarry located to the north east of the county as indicated on Figure 4.1 in the RTS 1st Review is a sandstone quarry as indicated in the RTS 1st Review, or an operational coal site as depicted on the proposals map (inset 20 & 21).

Policy M2 is not adequately displayed on the proposals map. All policies in the plan with a spatial element should be shown on the proposals map. It would aid clarity if the proposals map identified areas where coal will not be worked which would

include both settlement protection zones and the international and national environmental and cultural areas.

There are instances where settlement protection zones overlap operational coal sites, which results in contradictory policy statements. The authority would need to refine settlement protection zones in such instances (see our response to question 8).

As raised in the strategy session, we consider that there may be opportunities for improving the clarity of the proposals map.

8. How have the Settlement Protection Zones been identified? Which policy refers to them?

Policy M2 identifies areas where coal working will not be acceptable.

The authority appears to have applied a blanket approach to application of 500m settlement protection zones. It is unclear why the authority has placed settlement protection zones around those settlements which are not within 500m of a primary or secondary coal resource e.g. Glyncorwg.

As stated in our response to question 7, there are instances where settlement protection zones overlap operational coal sites, which results in contradictory policy statements. The authority would need to refine settlement protection zones in such instances.

9. Are all existing and potential new wharves and railheads safeguarded in the LDP? Are they protected through a policy and identified on the Proposals Map?

The authority has clarified through their Observations on the Focussed Change Representations (January 2015) that wharves and railheads are safeguarded through Policy TR4 Safeguarding Freight Facilities.

It is noted that these are identified on the proposals map. However, due to the colours used on the map they are not easily identifiable. As stated in our

representation to issue 2, we have some concerns regarding the clarity of the proposals map. The authority may wish to consider preparing a constraints map to include designations that are outside of their control.

Renewable and Low Carbon Energy

10. What is the evidence informing the LDP's renewable energy policies?

This is a matter for the local planning authority.

11. Is the area of Strategic Search Area E, as amended through FC25 and FC38, consistent with that identified in TAN8?

Technical Advice Note 8: Planning for Renewable Energy states that large scale (over 25MW) onshore wind developments should be concentrated into particular areas defined as Strategic Search Areas (SSAs). SSAs were identified at a "broad brush" scale and it was acknowledged that not all on the land within the SSAs may be technically, economically and / or environmentally suitable for major wind power proposals. Local planning authorities may refine the SSAs in order to guide and optimise development within the area (paragraph 2.5).

It is acknowledged that the authority, as part of a consortium of South Wales planning authorities jointly commissioned Arup to undertake a refinement exercise of SSAs E and F. It would appear that the refined SSAs shown on the proposals map accurately reflects the Arup study, and if the authority could confirm this, we would support FC38.

We support FC25 as it correlates with the first criterion of RE1 as amended by FC23. The second sentence as deleted is effectively a policy and is inappropriate to be in the reasoned justification.

12. Are Policy SP 18 and Policy RE 1, as amended by FC23 and FC26, consistent with PPW, TAN8 and TAN6? Are they reasonable and appropriate? Would Policy RE 1 allow proposals which constitute farm diversification?

As stated in our representation to the authority's focussed changes, we object to the amendment to criterion 2 in Policy RE1 (FC23). The insertion of 'landscape

character' as an assessment criterion is not in line with national policy. TAN 8 states that "within (and immediately adjacent) to the SSAs, the implicit objective is to accept landscape change i.e. significant change in landscape character from wind turbine development" (para 8.4 annex D). It is therefore inappropriate to assess the landscape impact of proposals within (and immediately adjacent) to the SSAs. Policy RE1 should clearly articulate the criteria that would apply to the following types of application;

Proposals for large scale wind energy over 25MW in SSAs

Proposals for large scale wind energy over 25 MW outside of SSAs

Proposals for medium scale renewable energy projects 5MW to 25 MW

Proposals for small scale renewable energy projects up to 5MW

In relation to FC26, the Council's Observations on the Focussed Change Representations (January 2015) accepts that Policy RE1 should not require proposals to demonstrate evidence of benefit for the community. The proposed deletions of criterion in Policy RE1 and the final sentence in paragraph 5.3.97 are supported. As stated in our deposit representation, it is contrary to national planning policy contained in Technical Advice Note 8 for community benefit to be a planning consideration (paragraph 2.16 and Annex B, paragraph 2.4).

Waste

13. Will the sites identified in Policy W1 be appropriate and sufficient to meet the need for new waste facilities?

TAN 21 (paragraph 3.21) states that LDPs should indicate where suitable and appropriate sites exist for the provision of all types of waste management facilities in order to provide some certainty for waste operators interested in fulfilling demand in an area. In accordance with TAN 21, the WG is supportive of the identification of preferred sites for in-building facilities in Policy W1.

National planning policy states that due to the emergence of new technology, it is more difficult to ascribe a value to an 'average facility' and the general approach in the CIM Sector Plan has been to move away from land-take based calculations to express the need for waste management facilities based on future capacity in

tonnes. However, in the absence of regional monitoring reports, the land requirement identified in the Regional Waste Plan (RWP) could continue to be used to inform local authority thinking only. The land-take provides a valuable spatial basis for implementing the broad principle of the CIM Plan and 'Areas of Search' exercise undertaken as part of the RWP.

The requirement to submit a Health Impact Assessment (HIA) in paragraph 5.3.122 should be included in the text of Policy W1 as it informs the Council's decision when determining planning applications. In addition, the policy should require the submission of a Waste Planning Assessment with all applications for a waste facility (see TAN 21, paragraph 4.2).