

**ES13.3**



**Blaenau Gwent County Borough Council**

**Local Development Plan**

**Hearing Session 13: Securing Sustainable  
Development**

**Wednesday 4th July 2012**

**Examination 2012**

**Blaenau Gwent County Borough Council Submission**

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## **SESSION 13      SECURING SUSTAINABLE DEVELOPMENT (environmental assets, water quality, flood risk, climate change)**

### **Introduction**

This Statement has been prepared by Blaenau Gwent County Borough Council in order to help facilitate appropriate discussion at the Securing Sustainable Development Hearing Session. The Paper provides a response to the questions set by the Planning Inspector (Mr Vincent Maher).

Where the Council does not intend to provide any additional written evidence the Inspector's attention is directed to the relevant part of the Evidence Base, which in the view of the Council addresses the matters raised. The paper will not repeat evidence previously submitted for consideration.

The Council's detailed responses to the representations received to sustainable development are contained in the Report of Representations **(SD07b)**.

### **Council Response to Inspector's Questions** (questions in bold)

**1. How has the Plan translated national policies into local action and does it provide adequate policy support for protecting the borough's environmental assets? Would the Plan be unsound if SSSIs and LNRs were not shown on the supporting proposals map?**

**How has the Plan translated national policies into local action and does it provide adequate policy support for protecting the borough's environmental assets?**

The Inspector's attention is drawn to the Environment Background Paper **(SD58)**, pages 2-6) which sets out national and regional environment policy in detail.

In summary, PPW **(W41)** sets out that the role of the planning system is to ensure that society's land requirements are met in ways, which do not impose unnecessary constraints on development whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment **(W41)** page 68, paragraph 5.1.3).

Policies SP10 and SP11 set out the strategic approach to the identification, protection and enhancement of international, European, national and locally important sites, habitats and species across the Borough. In line with PPW **(W41)**, the nationally protected sites have not been included as specific policies within the plan however, locally important sites have been identified in allocations ENV1, ENV2, ENV3 and Development Management Policies DM15, DM16, DM17, DM18, set out the criteria against which planning application will be assessed where such assets may be affected.

As such it is considered that the Plan does provide adequate policy support for protecting the Borough's environmental assets.

### **Rebuttal - Countryside Council for Wales (Representor: 10)**

CCW propose that policy DM15 should be amended by replacing Priority Habitats and Species in the last line of criterion 2 with 'habitats and species of principle importance for biodiversity in Wales'. The Council has no issue to the proposed amendment.

CCW have also proposed that the addition of a new criterion to policy DM15 which clarifies that proposals which are likely to result in disturbance or harm to a protected species or its habitats will be assessed in accordance with national policy.

The Council considers that it is unnecessary to add additional criterion to policy DM15. Criterion (a) of SP10 already outlines the Council's commitment to protect sites and species (FC5.C) in line with national planning policy therefore to repeat it in this policy would be unnecessary repetition.

### **Would the Plan be unsound if SSSIs and LNRs were not shown on the supporting proposals map?**

The Council takes the view that the constraints map forms part of the LDP. This approach has been adopted by Caerphilly County Borough Council and Rhondda Cynon Taf.

The approach taken was to identify those designations which fall outside the development plan process on the constraints map. Therefore national designations such as SSSIs and other sites or designations identified through other processes such as LNRs were identified on the Constraints Map. The advantage is that the Constraints Map can be updated quickly to keep abreast of changing circumstances.

<p><b>2. What constraints are there on development within the county given its proximity to the Usk Bat Sites SAC and other European designated sites (Cwm Clydach Woodlands, Aberbargoed Grasslands; Sugar Loaf Woodlands)?</b></p>
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The Usk Bat SAC (and other European sites) are protected through the Conservation of Habitats and Species Regulations 2010 (as amended) for the presence of Annex 1 habitats and Annex 2 species. Regulations 61 requires the Competent Authority to determine whether a plan is likely to have a significant effect on a European habitat or species, either alone or "in combination" with other plans or projects, where it is not directly connected and necessary to the management of the site. Where it is concluded that there could be a likely significant effect, the Competent Authority must

undertake an Appropriate Assessment to determine the impact of the plan on the integrity of the European site, with respect to its conservation objectives.

The screening report (undertaken by Capita Symonds) identified 4 European sites that may be impacted by the deposit Local Development Plan including the Usk bat SAC, Cwm Clydach SAC, Aberbargoed grasslands SAC, sugarloaf woodlands SAC. An Appropriate Assessment was then undertaken to fully assess the potential impacts of the Local Development Plan (and its policies) on these sites (in addition to the River Usk SAC, which was included as a precautionary approach). As such the HRA, identified where Local Development Plan policies could result in impacts on SACs and where further mitigation would be required.

The Habitat Regulations Assessment (**SD06**) reported that the Local Development Plan would adversely affect the integrity of 4 of the 5 European Sites identified from the HRA screening report, when considered in isolation from other plans and projects. However when considering the imposition of conditions or restrictions (mitigation) on the way the plan is to be carried out (through policies) it is reported that there would be no adverse effects on the integrity of the site. Specific restrictions and/or conditions include:

Preventing loss of natural habitat by activities such as clearing of land or removal of vegetation within geographical limits of the protected sites.

- Achieved through policy DM15 alongside other relevant National policies

Preventing Local Development Plan activities which would cause direct or indirect disturbance to the features such as light, noise etc from occurring by ensuring that such activities only take place at a "safe" distance from the European site as determined by the conservation Authority.

- Achieved through the determination process which has as its core consultation with the relevant regulatory bodies

Requiring measures in new development to safeguard against increasing atmospheric pollutants (such as photochemical oxidants, particulate matters etc) above existing levels - particularly those which contribute to acidification and eutrophication.

- Achieved through policy DM3 and through the planning determination process in consultation with the relevant regulatory bodies

Requiring new developments not to alter natural drainage and surface runoff characteristics and processes. The predevelopment and post development runoff volumes and rates should be the same.

- Achieved through policy DM1(e), and the planning determination process by application of TAN 15 (**W64**) and PPW (**W41**) particularly in regards to land drainage and development in flood risk areas

Requiring measures in new developments to prevent site pollutants, which are likely to adversely affect water quality from being transported by water to the designated European site.

- Achieved through the application of policy DM3, the planning determination process and the consultation involved with the regulatory bodies. The EA has developed non-statutory Pollution Prevention Guidelines, which specify best practice procedures for construction and building activities. As well as through the application of some of the development management policies, alongside other national policies

Requiring that approval be obtained from the appropriate regulatory body before consenting to developments which involve: Abstraction and/or discharges From/to River; In channel works or construction (including flow diversion or impoundment).

- Achieved through the planning determination process and the consultation with regulatory bodies

Further recommendations to remove remaining potential adverse impacts include:

*“The inclusion, as an Local Development Plan strategic policy, or a clear statement that the proposed Local Development Plan and its components will meet the specific requirements of the Habitats Directive (Council Directive 92/43/EEC) and will not adversely affect the integrity of sites concerned*

*Although the LDP has been demonstrated not to have a significant effects on water resources, both locally and in a wider context (see section 7.4), it is recommended that a clear statement be included in the LDP specifying that no development activity proposed under the BGCBC Deposit LDP will be allowed if it can be demonstrated that there is likely to be adverse impact on the water resources, both locally and regionally.*

*It is also recommended that any development project that could have any impact on connective corridors or cause direct or indirect disturbance to the features (such as light, noise etc) must be the subject of a project level HRA” (SD06, page91 paragraph 9.2).*

The Local Development Plan and its policies should clearly demonstrate a regard for the Habitats directive, and ensure that there are no adverse affects on European sites through its proposals. The inclusion of specific policies under SP10 & DM15 as well as statutory consultation processes within development control should provide sufficient opportunity to ensure potential impacts on European sites, which are in close proximity to Blaenau Gwent LPA, are identified and mitigated for where necessary. Each project proposal will need to be assessed on a case-by-case basis. It is likely that it will only be at the development control stage that sufficient information will be available to determine specific impacts on European sites, at a project level. However the HRA can be used as a guide to identify those European sites that need to

be considered and to highlight development, which may require project level HRAs.

More specific policy guidance has been included in the Local Development Plan on the Usk Bat SAC (DM15.1), due to the known presence of Lesser Horseshoes bats from the Usk Bat SAC within Blaenau Gwent. Within this buffer impact from development proposals on the Usk Bat SAC features specifically Lesser Horseshoe bats and their foraging/commuting area/corridors must be considered. This has been developed in consultation with CCW, utilising best available knowledge on lesser horseshoe ecology. Proposed projects/developments within this buffer must be considered and assessed to determine whether there will be a likely significant effect on the Usk Bat SAC features (lesser Horseshoe bats), and whether an Appropriate Assessment will be required. Specific proposed developments have also been highlighted which will require an HRA with regards to the Usk Bat SAC. For these particular projects, consideration of impacts against the conservation objectives of the European site will be required and where there are likely significant effects, mitigation will be required. This will be based on up to date ecological information, policy and best practice specific to the impacts of the development proposal.

Providing that mitigation measures can be provided through the project, it will not be constrained by the presence of European sites in the region.

### **Rebuttal – Countryside Council for Wales (Representor No: 10)**

The Council welcomes the support.

**3. What is the likely cumulative effect of developing a range of sites for employment use (for example, MU1; EMP1.5 - Rassau Platform B; and EMP1.8 - Crown Business Park Platform A) and transport projects (for example, T6.1) on the commuting and foraging opportunities for bats? Does the Plan provide sufficient policy guidance to address any significant potential impact such development might have on protected species?**

**What is the likely cumulative effect of developing a range of sites for employment use (for example, MU1; EMP1.5 - Rassau Platform B; and EMP1.8 - Crown Business Park Platform A) and transport projects (for example, T6.1) on the commuting and foraging opportunities for bats?**

The Habitat Regulation Assessment (HRA) does assess the separate Local Development Plan allocations (housing, transport, retail etc) and their potential impact on European sites including the Usk Bat SAC and lesser horseshoe bat feature, which it is concluded will have a potentially significant impact. However, it is concluded that individually these could be mitigated. As previously discussed this would be through the statutory consultation process in development control and requirement to undertake project level

HRAs (specific projects which are more likely to have an impact on the integrity of the Usk bat SAC and its features, being highlighted as requiring an HRA). Each HRA will be required to assess the project alone and “in combination” therefore addressing other significant plans and projects, which may be relevant. Where impacts on the integrity of the Usk Bat SAC and lesser horseshoe bats are likely, mitigation measures such as the retention of foraging habitat and linear boundaries will be required as part of each development proposal.

### **Rebuttal – Countryside Council for Wales (Representor No: 10)**

The Council welcomes the support.

#### **Does the Plan provide sufficient policy guidance to address any significant potential impact such development might have on protected species?**

In addition to the Usk Bat SAC and lesser horseshoe bats, the presence of bats and other protected species (including those protected by European and national legislation) are also an material consideration. DM15.2 provides protection to locally important sites and species, through a specific policy, which states that:

‘Development proposals will only be permitted within or close in close proximity to sites designated as SINCS and LNRs, or that affect ecological corridors and habitats or species where either:

- It maintains or enhances the ecological or geological importance of the designation and species or
- The need for development outweighs the nature conservation importance of the site/species and it can be demonstrated that the development cannot be reasonably be located elsewhere and compensatory provision will be made equivalent to that lost as a result of development (SD10a FC5.F)

DM15 also states that proposals likely to affect species afforded European and National protections are assessed in accordance with national planning policy (**SD10a** FC5.G).

As detailed further in the policy, where development proposals are thought likely to impact biodiversity and in particular species which are protected and/or a priority of nature conservation, up to date ecological information will be required to determine the conservation importance of the species and where development outweighs these, to implement measures to offset any impacts.

In particular, bats will be considered as both locally important, protected through local policies and as European and nationally protected species, through national policies. Where developments are proposed, further information will be required on the presence and status of the species in the area. Where impacts are likely mitigation measures are required to offset

these. For bats, as a European protected species, in line with national guidance, specific tests (i.e. the 3 tests) will need to be met before development can proceed and ensure that favourable conservation status is maintained.

#### **Rebuttal – Countryside Council for Wales (Representor No: 10)**

The Council welcomes the support.

#### **4. What is the purpose of Policy DM5? What does it seek to achieve that is not covered by other policies?**

The purpose of policy DM5 is to provide a positive policy framework for the development of low and zero carbon energy technologies (**W41**, page 174, paragraph 12.9.1).

It is accepted that the policy repeats other development management policies. However, the lack of reference to these issues was raised through consultation of the Preferred Strategy (**SD28**) and the Sustainability Appraisal process (**SD04a – SD04b**).

The aim of the Plan is to set out a coherent strategy for Blaenau Gwent, covering the issues that have been identified as being of local importance.

#### **5. What plans are in place to increase the amount of the county's electricity and heat requirements from renewable and low/ zero carbon technologies to support Policy SP7? Should the Plan make site allocations for new renewable and low/ zero carbon development including wind energy? Should the Plan require major development sites (for example MU1) to deliver on site energy through microgeneration to meet the needs of the future residents and workers?**

#### **What plans are in place to increase the amount of the county's electricity and heat requirements from renewable and low/ zero carbon technologies to support Policy SP7?**

'The Works' Masterplan (**SD61a**) includes an Energy Centre providing heat and power via a mixture of gas boilers, combined heat and power units and a biomass boiler. A district heating system powered by the Energy Centre will serve large users on the site such as the Learning Campus and Leisure Centre. Smaller standalone Biomass boilers for the hospital and primary school will serve these buildings.

The Ebbw Vale Sustainable Regeneration Framework (**SD59a**) identifies that there is potential for combined heat and power system at Ebbw Vale Northern Corridor providing heat and electricity to high density parts of the site.



All development at these two sites will seek to obtain BREEAM 'NEAT' 'excellent' standard or obtain Code for Sustainable Homes Level 4 (**SD61a**, page 16 and **SD59a**, page 23-24).

The Renewable Energy Assessment (**SD50**) identified that there is potential for the increase in the amount of the county's electricity and heat requirements from renewable and low/zero carbon technologies as a result of building integrated renewables. This will be through new and existing building stock. New building stock is required to meet level 3 of the Code for Sustainable Homes and obtain credits under *Ene1 – Dwelling Emission Rate* and BREEAM very good and achieve the mandatory credits for 'Excellent' under issue Ene 1 – Reduction of CO<sub>2</sub> emissions as set out in PPW (**W41**, page 60, paragraph 4.11.4).

For existing stock in Blaenau Gwent, a significant amount is being invested in Council housing as a result of the stock transfer to Tai Calon. The first priority of Tai Calon is to raise the standard of social housing to meet the Welsh Housing Quality Standard. This includes the installation of renewable and low zero carbon technologies such as solar photovoltaic panels.

**Should the Plan make site allocations for new renewable and low/zero carbon development including wind energy?**

The Council has undertaken a Renewable Energy Assessment (**SD50**) in accordance with the Planning for Renewable and Low Carbon Energy - A toolkit for Planners (**SD118**). The Renewable Energy Assessment consists of an assessment of the potential for renewable and low carbon energy generation at the County Borough scale. It does not assess the potential for the generation of potential sites.

In terms of wind energy, the assessment focussed on establishing the potential wind resource and was not constrained by the requirements of TAN 8 guidance. There was also a number of constraints to onshore wind development that was not considered within the assessment such as access to sites required for development, landowner willingness for development to go ahead, political will, the time to complete planning procedures and distance to the nearest appropriate electricity grid connection.

Therefore for the Council to make any site allocations for new renewable and low/ zero carbon development a significant amount of further work would have to be undertaken. The Council propose to prepare a Renewable Energy Supplementary Planning Guidance to supplement policies in the Local Development Plan.

**Should the Plan require major development sites (for example MU1) to deliver on site energy through microgeneration to meet the needs of the future residents and workers?**

The Ebbw Vale Sustainable Regeneration Framework (**SD59a**) which has been adopted as Supplementary Planning Guidance for the development of

MU1 Ebbw Vale Northern Corridor identifies that there is potential for combined heat and power system providing heat and electricity to high density parts of the site.

**SD59a** also identifies that the residential element of the site will be developed at Code for Sustainable Homes Level 4.

**6. Does Policy SP7 provide sound guidance on when it may be appropriate to release greenfield land for new development?**

Policy SP7 fully accords with Planning Policy Wales (**W41**, page 55, paragraph 4.8.1) where the preference is for brownfield land over the development of greenfield sites as reflected in criterion 1d and paragraph 6.51 of policy SP7.

**7. Why has a new criterion (b) been added to Policy DM3? Does FC criterion (c) of this policy repeat Policy DM1?**

**Why has a new criterion (b) been added to Policy DM3?**

A new criterion (b) was added to Policy DM3 to overcome Environment Agency concerns with regards to a lack of reference to improving water quality. Planning Policy Wales advises local planning authorities to take account of such quality objectives when preparing development plans and to work closely with pollution control authorities in the preparation of these plans and when determining planning applications (**W41**, page 93, paragraph 13.11).

**Does FC criterion (c) of this policy repeat Policy DM1?**

No. Policy DM3 criterion (c) does not repeat Policy DM1 as Policy DM1 does not refer to air pollution. It is, however, accepted that there is some overlap between the two policies. Comments from the EA on an early draft of the Plan led to the separation of water and air from Policy DM1.

**8. Is there any conflict between the siting of development and infrastructure identified in the Plan and the areas of flood risk identified as Zone C (refer TAN 15)?**

A Strategic Flood Consequence Assessment (**SD117a-e**) has been undertaken to inform the Sustainability Appraisal of the Local Development Plan and to ensure proposed developments are steered towards the lowest possible flood risk zone.

Attached at appendix 1 is a list of infrastructure and development which conflict with Zone C, as identified in Technical Advice Note 15 (**W64**).

Due to the topography of the area it would be impossible to connect the valley communities without infrastructure crossing TAN: 15 (W64) Zone C areas. Two roads, some rail infrastructure and a number of cycle tracks cross flood Zone C areas. However, this is less vulnerable development which is permitted in such areas provided it meets the justification test including acceptability of consequences (W64, page 14).

The main restriction in Zone C2 is for emergency services and highly vulnerable development (W64, page 7), the only site which doesn't have planning permission or has not been completed which falls within this category is allocation (ED1.2) at Six Bells. The Environment Agency is now satisfied that the risks and consequences of flooding at this site could be managed to an acceptable level in accordance with TAN15, subject to the submission of a satisfactory Flood Consequence Assessment at the planning applications stage (ES5.2).

The remainder of the sites identified in the table are either completed, have the benefit of planning permission, or have very small parts within Zone C where no development will take place or have been assessed through the Strategic Flood Consequence Assessment and found to be acceptable.

<p><b>9. Do Policies SP10 and DM3 provide clear guidance on how development should aspire to improve water quality?</b></p>
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Yes. Policies SP10 and DM3 provide clear guidance on how development should aspire to improve water quality. The key way that developments can improve water quality is through removing obstructions to watercourses. This is set out in paragraph 7.25 of the Statement of Focussed Changes document (SD10a, page 15, paragraph 7.25).

**Rebuttal – Countryside Council for Wales (Representor No: 10)**

The Council welcomes the support of the focussed change. (SD10a, FC7.F page 15, paragraph 7.25).

# Appendix 1

## Transport Infrastructure

Policy	Zone C	Status
T1.1 HoV Route linking Nine Arches, Tredegar to Brynmawr	Small sections within	Completed
T1.3 HoV to Ebbw Vale and Cwm	Small sections within	Completed
T1.4 Cwm to Aberbeeg	Small sections within	
T1.9 Brynmawr to Blaenavon	Small sections within	Completed
T1.10 Extension of Ebbw Fach Trail, Abertillery to Aberbeeg and completion of missing section through Blaina	Small sections within	Completed
T1.11 Link to Cwmtillery Lakes	Small sections within	
T1.12 Aberbeeg to Royal Oak	Small sections within	
T2.1 Extension of rail link from Parkway to Ebbw Vale Town	Within – land raised to address issue	Outline planning permission for site
T2.2 Provision of new station and public transport interchange at Ebbw Vale	Within – land raised to address issue	Outline planning permission for site
T2.4 Extension of rail link to Abertillery	Small sections within	
T4.1 Bus Priority Scheme along the Brynmawr to Newport Bus Corridor	Small sections within	
T5.1 Construction of a Peripheral Distributor Road through 'The Works'	Within – land raised to address issue	Outline planning permission for site
T6.1 Dualling of the A465 Heads of the Valleys Road (Tredegar to Brynmawr)	Small sections within	Due to commence soon
T6.4 Online improvements of A467	Small sections within	

## Other Development

Policy	Zone C	Status
MU2 The Works, Ebbw Vale	Within – land raised to address issue	Outline planning permission for site
HC1.3 Old 45 Yard, Steelworks Road, Ebbw Vale	Small part within	Completed
HC1.8 Higgs Yard, Ebbw Vale	Site within	Full planning permission
EMP1.2 Land at Tredegar Business Park	Small part within	Stage 2 SFCA (SD117b)
EMP1.3 Land at Rising Sun Industrial Estate, Nantyglo	Small part within	Stage 2 SFCA (SD117b)
ED1.1 Ysgol Gymraeg, Brynmawr	Small part within	Completed
ED1.2 Lower Plaeau Six Bells Colliery Site	Site within	Stage 3 SFCA (ED.15)
TM1.2 Garden Festival , Ebbw Vale	Small part within	No built development within
TM1.7 Cwmtillery Lakes, Cwmtillery	Small part within	No built development within