



**NATIONAL ASSEMBLY FOR WALES**

**~~DRAFT GUIDANCE FOR CONSULTATION – DOCUMENT 1 (of 2)~~**

## **unitary development plans**

### **WALES**

**[to replace Planning Guidance (Wales): Unitary Development Plans,  
Welsh Office, 1996.]**

**~~N.B. Please use standard Form 1 provided with the covering note for your comments, and  
return them by~~**

**~~Monday, 9<sup>th</sup> October 2000~~ to:**

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## **1. UNITARY DEVELOPMENT PLANS IN THE PLANNING SYSTEM**

### **National Planning Guidance**

1.1 This document contains the National Assembly's advice on the preparation of unitary development plans (UDPs) in Wales. Land use planning policies as they apply to Wales are set out in "Planning Guidance (Wales): Planning Policy First Revision" (to be replaced by Planning Policy Wales when issued) and Minerals Planning Policy Wales ~~Guidance (Wales)~~ supplemented by Technical Advice Notes and Circulars (giving procedural advice). A National Spatial Planning Framework for Wales is currently being prepared by the Assembly. This package of national planning guidance should be used by local planning authorities in Wales in the preparation of UDPs. As the Assembly has responsibility for land use planning in Wales, this guidance should prevail over all previous guidance on UDPs in Wales or that issued by the Department of the Environment, Transport and the Regions.

### **Plan Requirement**

1.2 The Town and Country Planning Act 1990, as amended by the Local Government (Wales) Act 1994, requires each authority in Wales to prepare a UDP for its area. The UDP will be the development plan for each county or county borough council and each National Park, superseding the structure plan, local plan and any other existing development plan. **UDPs should be prepared as soon as possible; a particularly high priority should be given to doing so in areas where the adopted development plan is not up to date.** The procedures for UDP preparation are set out in the Town and Country Planning (Development Plan) Regulations 1991 (as amended).

### **Collaborative Working**

1.3 Consultation and collaboration is needed between authorities, and with other organisations as appropriate, to consider issues of a strategic nature which affect more than one authority.

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This work should can best be taken forward by appropriate groups of authorities and all authorities in Wales should become part of such a group(s). This process and the strategic planning conclusions which the groups produce will form part of the context for, and an input to UDPs, especially Part I strategies and policies.

1.4 Issues of a strategic nature which should be addressed by these groups include:

- economic opportunities, including tourism and commerce, and the general location of strategic employment sites;
- population change and household formation;
- broad measures of housing requirement and distribution;
- transport links and accessibility;
- rural change;
  - broad considerations for environmental protection and, in appropriate areas, the possible need for Green Belts;
  - mineral resources and supply;
  - waste disposal strategies;
  - energy resources and supplies;
  - coastal issues;
  - social, cultural and heritage issues, including the well-being of the Welsh language.

1.5 Other issues may be appropriate in some areas; the choice and balance of issues is a matter for the groups to consider. In addressing these issues consideration should also be given to the relationships between them, especially between the scale and location of new development, accessibility and the environment.

1.6 Groups should take into account national planning policy guidance as well as other policies, programmes and guidance from the National Assembly, including the Sustainable Development Scheme, national the National Economic Development Strategy and economic, environmental and transport programmes. When completed, the National Transport Framework and the National Spatial Planning Framework will also provide an important context for their work. They should also take into account and interact with other cross-boundary work, for example in relation to integrated transport, economic development, training, community development and the environment.

1.7 Each group should follow a structured and transparent process so that the source of contributions and the basis for conclusions is clear. A wide range of organisations are in a position to contribute useful information and views should be sought from organisations which the group considers to be in a position to make a useful contribution. The National Assembly's Planning Division should be consulted. Where it appears beneficial the groups should consult other groups in Wales and the The groups should also consult

those other bodies in Wales listed in Annex B where it is beneficial to do so or where their interests are affected significantly. There should also be consultation with bodies responsible for preparing regional planning guidance in adjacent regions of England. The latter should be focused closely to specific matters where such consultation is needed. The involvement of elected members as well as officers will benefit the process.

1.8 Each Before reaching its conclusions, each group should decide whether it needs to produce any draft documents before producing its conclusions and the nature of documentation required for consultation purposes. The group should consider whether it wishes to carry out would benefit from any more formalised and public discussion or examination of the issues and emerging conclusions. The value of both the process and any final report will be enhanced by the application of a sustainability appraisal, taking account of environmental, social and economic considerations. Groups may find helpful the advice contained in "Planning for Sustainable Development: Towards Better Practice" (DETR, 1998) and "Proposals for a Good Practice Guide on Sustainability Appraisal of Regional Planning Guidance" (DETR, 1999).

1.9 Each group should present the conclusions of its work in a report form which will be widely understood and can be readily applied in UDPs. A report could be an appropriate means of setting out strategic information gathered, strategic conclusions reached and any spatial implications. The report should be in a form which will be widely understood and can be readily applied in UDPs. The group or its member authorities should ensure that the public and other interests are aware of its conclusions and the basis for them. Each group should seek an agreed set of strategic conclusions. Where significant differences of view exist the report should identify and explain the difference of view. The report should be accompanied by a summary of the sustainability appraisal setting out the environmental, economic and social implications of the strategies agreed. Individual authorities may wish to approve the report as a statement of the strategy informing their UDPs.

1.10 The report, or any part of its content, may (except to the extent that they have been superceded by the provisions of an adopted UDP) be a material consideration for development control purposes. It may be used to support bids for financial grants or programmes and to assess such proposals.

1.11 The process of collaboration should be allocated sufficient resources by authorities to ensure its effectiveness. These resources should rapidly produce benefits and resource savings by contributing to the speedier preparation of UDPs. However, while UDPs already being prepared should take account of the existing and emerging work of the groups, their preparation should not be delayed because of that work. Both the work of the groups in relation to strategic issues, and the preparation and review of UDPs, will be on-going processes.

## **Plans - Land Use Policy Framework**

1.12 The National Assembly is fully committed to the plan-led system, given statutory force by section 54A of the Town and Country Planning Act 1990 ('the 1990 Act'). Where an adopted or approved development plan contains relevant policies, Section 54A requires that an application for planning permission or an appeal shall be determined planning decisions be made in accordance with the development plan, unless material considerations indicate otherwise. This provides a framework for rational and consistent decision making. It also provides a system which enables the whole community – businesses, other organisations, and the general public – to be fully involved in the shaping of planning policies for their area, through public participation processes.

1.13 Development plans provide a policy framework within which provision can be made for development and conservation needs. They should be a clear and concise statement of an authority's policies and proposals for the development and other use of land, explaining, in a reasoned justification, the regard the authority has had to economic, social and environmental considerations, including the needs and interests of the Welsh language, and other relevant considerations.

1.14 The plan-led system can only be successful and command public confidence if adopted plans are in place and are kept up-to-date. Guidance on the weight to be attached to policies in emerging plans is contained in Planning Guidance (Wales) : Planning Policy First Revision. UDP guidance is revised from time to time to support the process of plan preparation and adoption. It is vital that authorities give adequate priority to plan preparation and review and improve their handling of the plan preparation process through better project management. There is also considerable scope for authorities to learn from the experience of others. Reference is made in this document to sources of advice on recognised best practice; see also Annex C.

1.15 In addition to the UDP, local authorities produce a number of other plans, policies, programmes and management strategies, such as the programmes include the Local Transport Plan, Community Strategy Plan, the Local Transport Plan, Local Agenda 21 Strategy, Housing Strategy and Operational Plan, Economic Development Strategy, Local Biodiversity Action Plan, Local Air Quality Management Plans, Recycling Plan, Objective 1 Plan, National Park Management Plan, Crime and Disorder Act Strategy, countryside and coastal management strategies. The UDP should include any proposals and targets from these which have direct implications for land use. The spatial elements of plans and strategies prepared by local authorities and other public agencies need to conform to, and be compatible with, the UDP.

## **UDP and Community Strategies**

1.16 Guidance on preparing community strategies is being prepared by the National Assembly. Community strategies should provide the overarching strategic framework for all the other plans and strategies for the local authority area. UDPs and community strategies should be complementary.

## **UDP and Local Transport Plans**

1.17 Local Transport Plans (LTPs) are a central component of the National Assembly's strategy for delivering integrated transport. Each local authority should prepare a LTP for its area which sets out its proposals for the co-ordination and improvement of all transport modes, future investment priorities and the implementation of specific measures. Planning and highways authorities should ensure that the UDP transport strategy and the transport implementation programme and long term strategy of the LTP are consistent and integrated with each other. Advice on the content of LTPs and relationship to UDPs is set out in Guidance on Local Transport Plans in Wales (September 1999).

1.18 Some UDP and LTP transport issues are unlikely to be confined to a single local authority administrative area. Planning authorities have been encouraged to form groupings to collaboratively consider strategic planning issues, including transport, as an input to the preparation of UDPs. Such groupings should aim to produce an agreed strategic framework for transport policies and proposals to be included in UDPs and LTPs. Where possible, the UDP and LTP should be prepared in parallel. Where it is not possible to prepare them in parallel, efforts should be made to run as many stages as possible simultaneously, for example public consultation procedures. In the future, UDPs and LTPs should be reviewed together. National Park Authorities, although not responsible for the preparation of LTPs, should participate fully in the LTP preparation and review process to ensure full integration with the UDPs for which they are responsible.

1.19 Many elements of LTPs will have land use implications. In general any specific transport proposal which directly involves the development or use of land should appear as a policy or proposal in the UDP. For certain transport proposals, the proposal may not directly involve the use of land but has implications for land use. In such circumstances the land use implications should be included in the UDP. The 1990 Act places a requirement on authorities to include policies on the management of traffic in their UDPs. An authority should include any policies in its UDP that are directly related to the management of traffic, whether there are direct or indirect implications for land use. UDPs should include an indication of the timescale and priorities for transport policies and proposals which should reflect those contained in the LTP. Ideally the policies and proposals should be programmed with finance committed. To facilitate this, authorities are advised to consult with transport infrastructure providers at an early stage in UDP preparation and review.

## **Duration of Plan**

1.20 Plans should guide development for 10 to 15 years from the plan's forecasted adoption date, though a longer or indefinite time scale may be appropriate for some policies or types of development (such as the conservation and safeguarding of minerals, a phased long term development or conservation project, or green belt). Upon adoption, the plan will be the adopted development plan for the purpose of section 54A of the 1990 Act until it is altered or replaced.

## **Operative Date**

1.21 A UDP becomes operative on the date it is adopted. Guidance on the weight to be attached to policies in emerging plans is contained in Planning Guidance (Wales): Planning Policy First Revision.

## **Plan Withdrawal**

1.22 An authority may withdraw a UDP at any time before it is adopted by the authority (or approved by the National Assembly where the plan is called in - see paragraph 5.1).

## **Blight and Avoiding Blight**

1.23 An authority should make adequate provision for development and infrastructure provision. The provision made should be realistic and likely to be implemented during the period of the plan; this will assist in keeping blight to a minimum. Once an authority publishes under Section 13 (2) of the 1990 Act a draft UDP which it proposes to adopt, this will trigger the planning blight provisions as will the publication of proposals to alter or replace an adopted UDP.

1.24 Where circumstances change so that there are proposals in an adopted development plan which are no longer likely to be implemented, the authority should take the necessary action to ensure that this is clear to those using or referring to the plan. This is particularly important in cases such as proposals for major development or infrastructure projects

(e.g. road proposals) where uncertainty of the likelihood of projects proceeding can lead to perceived blight to property owners in the vicinity. The best way of removing such proposals from the plan is through a formal alteration to the plan. However, it is recognised that decisions not to proceed with proposals may be



taken on a timescale that does not match that for the review of a plan and subsequent decisions on alterations to, or replacement of, the plan. Therefore, where a firm decision has been made not to proceed with a proposal

(eg through a formal council resolution), the authority should ensure that the decision not to do so is made available to the public. This is best done by ensuring that a copy of the resolution (or other appropriate document) is made available with copies of the plan available for public inspection. The authority may also wish to inform directly those whose land or property may have been affected, and others as they think fit. Authorities should be aware that taking this approach does not equate to a formal alteration to the plan. In terms of Section 54A of the 1990 Act, the proposals in the plan will remain unaffected. The record of the decision by the authority that the proposals will not to be taken forward will, however, be a material consideration for in respect of any subsequent planning application or appeal that subsequently arises. The authority should ensure that the decision not to proceed with the proposal is incorporated in the next set of alterations to the plan or its subsequent replacement.

## **2. PLAN FORM**

### **Joint Plans**

2.1 Two or more authorities may prepare a joint UDP for their areas provided that:

- each of those areas adjoins each of the others; or
- the National Assembly has given approval to any other form of agreement.

The National Assembly recognises that there will be circumstances where joint working and plan preparation offers advantages in terms of the quality of the plans produced and also effective tackling of cross-boundary issues, however it is for authorities to consider this in the first instance.

2.2 Where a joint plan is prepared, the procedure is a joint responsibility of the authorities which prepared it, except that:

- each authority is responsible for putting the plan on deposit for public inspection in its area; and
- each authority adopts the plan in relation to its area and may do so with modifications if all other authorities who are parties to the joint plan agree to them.

After a joint plan has been adopted each authority may prepare proposals to alter or replace it in relation to their individual areas.

2.3 Authorities may consider that, in preparing their own UDPs, it is advantageous to carry out certain aspects of plan preparation in tandem or through joint working arrangements.

### **National Parks**

2.4 Each of the three National Park Authorities in Wales is a local planning authority and is required to prepare a UDP for its area and to exercise development control functions for all areas lying within its boundaries.

2.5 A National Park UDP will relate to an area prescribed by order by the National Assembly in relation to

that National Park. The prescribed area in relation to a National Park will be either the whole of the area of the National Park or a "composite area", that is the whole of the National Park together with any one or more other areas in Wales. A composite area can only be prescribed with the consent of every authority in whose area the prescribed area or any part of it would fall. Where composite areas are prescribed, these will have a bearing on the application of the Transitional Provisions (see Annex A). The UDP for a composite area will be prepared jointly by those authorities whose area, or any part of their area, falls within the area of that plan.

## **Area Committees**

2.6 Each UDP will be processed as a single plan, although where Area Committees have been established with the agreement of the Secretary of State in the past, or the National Assembly currently, an authority may seek approval from the Assembly to delegate responsibility for the preparation of a Part II of its plan to the Area Committees. Each Area Committee could take the lead in drafting and consulting on those parts of the plan which set out proposals for the development of land in its area. Authorities would retain responsibility for the preparation of Part I of the plan and for the deposit and subsequent adoption of the whole UDP.

## **Plan Title**

2.7 All plans must have a title comprising the name of the area of the authority and the type of plan. The status of the document and the date of production of draft plans, or of adoption should also be made clear. Authorities should, if possible, put these details on every page of the document so that there is no doubt about the status of any extract used at any stage.

## **Policies and Proposals and Level of Detail**

2.8 Policies and proposals must be relevant to the development and/or other use of land. They should not duplicate provisions in other legislative regimes, for example, in environmental health, building regulation and health and safety legislation. Policies must not be long, complex, vague or over-detailed. They should be clearly, simply and unambiguously expressed, capable of implementation and monitoring. This will facilitate plan preparation and adoption, provide good guidance for plan users and make development control decisions less complicated and more transparent. Policies should not include statements of intent or descriptions of administrative arrangements.

2.9 Policies may relate to the whole or part of the plan area, setting out the criteria which will be used to judge whether a development should be permitted, and to individual sites. Site specific proposals provide a positive lead for development, and help create certainty, both for developers and the local community. By identifying sites for development an authority can demonstrate how the vision and strategy in the plan will be implemented in practical terms. However, too many site specific policies can lead to an inflexible plan which may become outdated and need early replacement or alteration as circumstances change. Properly framed criteria-based policies can help simplify plans, and provide flexibility in areas where that is desired. Criteria can be used to judge planning applications in a broad range of circumstances. However, authorities should not include too many criteria-based policies, as this can make development control decisions more complicated and may lead to conflicting policies within the plan. This is best managed by carefully framing a limited number of carefully framed generic policies to cover a variety of types of development.

**2.10 There is a considerable potential for local authorities to learn from the experience of other plans.**

Whilst policies should be framed in a way which reflects particular local circumstances, there will be occasions where the policy wording on a subject in a particular plan is suitable for use by another local authority. The Planning Officers Society's guide to good practice, "Better Local Plans - A Guide to Writing Effective Policies" (POS, 1997) gives valuable advice covering the fundamental principles behind the drafting of local plan policies which is also applicable to UDP policies; it also contains a number of examples of policies which can be adapted to local circumstances if appropriate. "Development Plans - A Good Practice Guide" (DOE, HMSO, 1992) also contains advice on the content of plan policies and proposals. Organisations consulted during UDP preparation can also provide useful suggestions on policy drafting in relation to their particular interests.

2.11 Plans should not seek to designate, by means of policies or proposals, areas where special facilities or grants will be available, or where special consultation arrangements will apply. Plans should, however, indicate any land-use policies to be applied within any areas designated through other regimes.

### **Supplementary Planning Guidance (SPG)**

2.12 UDPs, which are subject to statutory procedures, should contain policies and proposals, which provide the basis for deciding planning applications, and for determining conditions to be attached to planning permissions; however they should avoid excessive detail. Authorities should consider the use of SPG as a means of setting out more detailed guidance on the way in which the policies of a UDP will be applied in particular circumstances or areas.

2.13 SPG does not form a part of the plan. It can take the form of design guides or area development briefs, or supplement other specific policies in a plan. SPG must itself be consistent with national planning guidance, as well as the policies set out in the adopted development plan. It should be clearly cross-referenced to the relevant plan policy or proposal which it supplements, issued separately from the plan, made publicly available and its status made clear. SPG should be reviewed on a regular basis alongside reviews of the development plan policies or proposals to which it relates.

2.14 While only the policies in the development plan can have the special status that Section 54A of the 1990 Act provides in deciding planning applications (see paragraph 1.12), SPG may be taken into account as a material consideration. The National Assembly will give substantial weight in making decisions on matters that come before it to SPG which derives out of and is consistent with the development plan, and has been prepared in the proper manner. SPG should be prepared in consultation with the general public, businesses, and other interested parties and their views should be taken into account before it is finalised. It should then be the subject of a council resolution to adopt it as supplementary guidance. On adoption, a statement of the consultation undertaken, the representations received and the authority's response to those representations should be made available with the SPG, either in an annex or in a separate document.

2.15 SPG can play a useful role in supplementing plan policies and proposals. However, it is emphasised that SPG must not be used to avoid subjecting to public scrutiny, in accordance with the statutory procedures, policies and proposals which should be included in the plan. Plan policies should not attempt to delegate the criteria for decisions on planning applications to SPG or to development briefs.

2.16 Further guidance on good practice, particularly in respect of site specific SPG is contained in "Planning and Development Briefs : A guide to better practice" (DETR, 1998).

2.17 The Development Plan Regulations require authorities to have regard to environmental, social and economic considerations when preparing development plans. However, policies in development plans should address those **aspects of sustainable development which are capable of being addressed through the land use planning system**. Non-land use considerations which have land use implications or which explain or give reasons for decisions taken about policies in the plan may be included in the reasoned justification. **It is necessary to consider the interaction of policies within the plan, so that, for example, the environmental and social implications of policies designed to encourage economic growth are fully considered.**

2.18 An authority should carry out a full sustainability appraisal of its development plan. The context should derive from the National Assembly's Sustainable Development Scheme, and the authority's own scheme or its Local Agenda 21 strategy. 'Planning for Sustainable Development: Towards Better Practice' (DETR, 1998) also contains advice on such an appraisal. Authorities may find 'Proposals for a Good Practice Guide on Sustainability Appraisal of Regional Planning Guidance' (DETR, 1999) useful. The Assembly will be considering the need for issuing further advice on sustainability appraisal in due course.

2.19 The appraisal process should be an important element of every stage of the development plan process. The whole process should be iterative so that the authority finishes the process with a clear set of objectives which informs each part of the development plan. It should be clear from the process how and why policy and proposal options have been chosen. Alternative policies, proposals and locations for development should be evaluated wherever appropriate. At key stages in development plan preparation (e.g. prior to the deposit of the plan, and at deposit) the appraisal of the plan should be subject to public consultation, with the responses to consultation then used to inform the next stage of plan preparation. The deposited version of the plan should not include the full appraisal within it, but it should be clear from the reasoned justification of the plan what elements of the appraisal have informed the policies and proposals in the plan.

2.20 It is important at the beginning of the appraisal process to undertake a scoping study to review the range of issues to be considered and identify the most important ones. Planning Guidance (Wales): Planning Policy First Revision, Minerals Planning Policy Wales (Wales) and Technical Advice Notes should be used to assist in identifying likely policies and proposals to include in plans. Alternative policies, proposals and locations for development should be evaluated wherever possible. The appraisal process needs to be drawn up in such a way that makes it useful to all those who need to take decisions based on its outcomes including planning officers and elected members, developers and other members of the public. Neighbouring authorities should aim to have consistent appraisal processes. These should be informed by and inform the work of other agencies involved in sustainability issues; involvement of outside bodies in the appraisal process can help to validate the whole appraisal process.

2.21 The appraisal process should continue once plans have been adopted. Plans should have key indicators built into them which are capable of being monitored throughout the lifetime of the plan. The appraisal process is a mechanism by which appropriate indicators may be identified and monitored. These indicators can then inform the review of plans and the need for subsequent alterations to policies, or the replacement of the plan. There are many current sources of information providing lists of indicators at both the UK and all Wales level which could assist in drawing a list of indicators suitable for a particular UDP, and sources include : the UK Government Indicator Set; DETR/The Audit Commission Best Value & Local Authority Performance Indicators; National Assembly Best Value Performance Indicators; 'Sustainable Wales – Measuring the Difference - Indicators for Sustainable Development in Wales', National Assembly; Local Agenda 21 Sustainability Indicators.

2.22 The fact that a plan was subject to appraisal does not take away the need for environmental impact

assessment of individual development proposals where they are required by legislation. Even where an appraisal of a plan has been undertaken and a subsequent development is proposed which is in accordance with the plan, an environmental impact assessment must still be carried out if required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999

(SI 1999 No 293).

## **Availability of Documents**

2.23 An authority is obliged to make available for public inspection and to advertise the availability of the plan and various other documents, reports and statements produced during the procedure leading to its adoption or approval. Copies of these documents must remain available for public inspection until 6 weeks after the date of publication of the notice of adoption, approval or rejection of the plan (the period for legal challenge). Any direction or notification from the National Assembly about the plan should also be available for inspection.

2.24 Copies of the plan and associated public documents should be available for purchase. When the plan is adopted or approved, it should remain available for inspection. As soon as practicable, it must be printed and made available both for inspection and for purchase at a reasonable charge. Authorities should consider the benefits of providing plan information on the Internet; paragraph 3.22 provides guidance on making plans available in digital format.

## **'Popular' Versions**

2.25 Authorities can should produce an inexpensive and simplified version of their UDP such as a single sheet map with a summary of the proposals printed on the reverse or a short pamphlet. These should include a note stating where the full UDP can be inspected. Versions of this summary should be prepared in ethnic minority languages as appropriate, and in large print.

## **Use of English and Welsh**

2.26 As public bodies, authorities in Wales are obliged to give effect, under the Welsh Language Act 1993, so far as is appropriate in the circumstances and reasonably practicable, to the principle that in the conduct of public business the English and Welsh languages should be treated on a basis of equality. The way in which each authority gives effect to that principle is set out in its Welsh Language Scheme. The Scheme is likely to be relevant to all stages of the process of preparing and revising UDPs but particularly to the way in which authorities publicise proposals, consult with the public, communicate with objectors and make arrangements for the conduct of inquiries and hearings. Pre-inquiry meetings provide a forum where practical questions relating to the use of Welsh languages used at the inquiry can be discussed so that objectors and others who wish to participate in the process through the medium of either the English or Welsh language can do so effectively.

## **3. PLAN CONTENT**

### **General Principles**

3.1 Plans must include policies on the improvement of the physical environment, traffic management, the conservation of the natural beauty and amenity of land, and policies to encourage management of landscape features which are of major importance for wild flora and fauna. Planning Guidance (Wales): Planning

Policy First Revision, Minerals Planning Policy Wales Guidance (Wales) and Technical Advice Notes provide guidance on the topics which should be considered for inclusion in UDPs.

3.2 The 1990 Act and the Development Plan Regulations together require a local planning authority to have regard to:

- any relevant planning guidance issued by the National Assembly;
- current national policies;
- the resources likely to be available;
- social, economic and environmental considerations;
- the national waste strategy;
- any waste disposal plans for the area;
- the objectives of preventing major accident involving hazardous substances and

limiting their consequences for man and the environment.

3. In preparing UDPs, **an authority must have regard to national policies set out in the planning guidance Wales series issued by the National Assembly.** However, authorities should not repeat large sections of these documents in plans. The emphasis should be on producing development plan policies which implement national and regional policy at the local level. The National Assembly may intervene in cases where a UDP goes against national policy guidance without justifiable reasons being provided.

3.4 **All plans should be in plain language, unambiguous and easily understood by all those who need to know about the planning policies and proposals which apply in the area.** The needs of all sections of the community should be considered in determining the approach and style of the plan. The use of a plan summary and a full index will help to make the plan more accessible. Jargon should be avoided as far as possible; where it is necessary to use technical terms, these should be explained in a glossary.

### **The UDP – Part I and Part II**

3.5 A UDP must be a single document comprising two parts; a Part I and a Part II. **Part I** should include an introduction briefly outlining the purpose and content of the plan; providing a statement of the overall strategy, aims, objectives and targets of the plan; and a written statement of the authority's general policies and proposals of strategic importance for the development and use of land in its area. The broad development and land-use strategy of Part I will provide a framework for the authority's detailed proposals in Part II. **Part II** should contain a written statement of the authority's detailed policies and specific proposals for the development and use of land; a reasoned justification of the general policies in Part I and the proposals in Part II of the plan; and a map showing these proposals on a geographical base. The proposals in Part II of a plan must be in conformity with the policies in Part I.

3.6 The **introduction** (located in Part I of the plan) should make clear the role and purpose of the plan and summarise the planning framework in which it is prepared i.e. national and strategic policies. It should also explain the plan's relationship with the authority's other policies, programmes and management strategies (see paragraph 1.15), and with the planning policies of neighbouring authorities.

3.7 The introduction should also include a clear and concise statement of its main **aims, objectives and targets**, and the **strategy** for achieving them, having regard to the likely level of both public and private sector **resources** available. Taken together, the strategy, aims, objectives and targets should provide a clear **vision** of what will be achieved by the implementation of the plan, and make clear the authority's priorities at the outset. When consulting at pre-deposit stage it may be useful to include for discussion alternative strategies, policies and proposals together with an assessment of their relative merits. Alternatives should not be put forward in the deposited plan, but an authority should briefly indicate in the reasoned justification the range of options considered and the basis on which choices were made.

3.8 Clear aims, objectives and targets in the plan, and a clear indication of how the policies and proposals will be implemented, by which agency and over what period, will assist **monitoring** of the implementation and effectiveness of policies.

3.9 Part I of UDPs should provide a statement of the **overall strategy** for development and the use of land in the area; they should address the following topics where they are relevant to the particular area covered:

a. Housing;

b. Conservation and improvement of the natural and built environment, including through better design and use of Green Belts if appropriate;

c. Economy, including agriculture, forestry, industry, business, retail and other employment-generating and wealth-creating development;

d. Land use/transportation strategy addressing accessibility and the provision of strategic and integrated transport facilities including highways, railways and other infrastructure;

e. Mineral working (including disposal of mineral waste) and the protection of mineral resources;

f. Safeguarding of natural resources

g. Waste treatment management and disposal, land reclamation, re-use and hazards;

h. Tourism, leisure, sport and recreation;

i. Energy conservation and generation, including renewable energy.

Sustainable development considerations should be taken into account in drawing up all policies. All authorities should consider whether they have communities where the use of the Welsh language is part of the social fabric. Where the use of the Welsh language is part of the social fabric of a community, the needs and interests of the language should be taken into account in the formulation of policies set out in the plan.

3.10 Plans should include both the urban and rural dimension of all relevant land use policies and should

take particular account of the differing features of rural areas, for example their sparsity of population, small settlements, narrower specific economic base needs, accessibility issues, remoteness and peripherality.

3.11 Part I should indicate the overall provision to be made for development in the area as a whole including figures for housing (including affordable housing), the broad location of major growth areas, and preferred locations for specific types of major developments (e.g. housing, leisure and employment); the general locations of individual major and strategic developments likely to have a significant effect on the plan area (e.g. a new settlement); and indicate broad areas of restraint on development.

3.12 Part I should contain only those policies and proposals which genuinely provide a strategic framework for the detailed policies and proposals in Part II and for development control.

## **Part II**

3.13 Part II should consist of a written statement and a proposals map.

3.14 The **written statement** should formulate policies and proposals for the development and use of land in the area, in particular those which will form the basis for deciding planning applications and determining the conditions attached to planning permissions.

3.15 The written statement should include a **reasoned justification** of the plan's Part I and Part II policies and proposals. A brief and clearly presented explanation and justification of such policies and proposals will be appreciated by all those concerned with development issues. The reasoned justification should only contain an explanation behind the policies and proposals in the plan; it should not contain policies and proposals which will be used in themselves for taking decisions on planning applications. To avoid any confusion, the policies and proposals should be readily distinguished from the reasoned justification (for example, by use of a different typeface).

3.16 The reasoned justification should include a statement of the regard the authority has had in formulating its general policies in Part I and its proposals in Part II to the issues set out in the 1990 Act and the Development Plan Regulations (see paragraph 3.2 above).

3.17 An authority should ensure that interactions between plan policies are fully considered. While there may be justification for extending the scope of plans beyond those topics indicated in paragraph 3.9 in particular cases, the National Assembly will be prepared to intervene to delete or modify policies which cover other topics or which are over-detailed.

3.18 The written statement may include such diagrams, illustrations or other descriptive or explanatory matter in respect of plan policies and proposals in Part I and II as the authority thinks appropriate or which are prescribed.

3.19 An authority may designate in Part II any part of its area as an **action area** within which comprehensive treatment by new development, redevelopment, rehabilitation or improvement by public authorities or private enterprise should start within 10 years of the plan's deposit (the 'prescribed period').

3.20 The '**proposals map**' should illustrate each of the detailed policies and proposals in the written statement, defining sites for particular developments or land-uses and the areas to which specified development control policies will be applied. Authorities should use common notations for land use policies in neighbouring areas where possible. Boundaries of locally or nationally designated areas such as heritage



coasts, conservation areas and Areas of Outstanding Natural Beauty should be shown to illustrate that a range of particular development control policies apply there. The map must be on an Ordnance Survey base, with the scale and an explanation of the notations given. It can comprise one or more sheets and may be accompanied by **insets** on a larger scale where it is necessary to show certain proposals more clearly. Each inset map must illustrate all the proposals for the area covered by the inset. The boundaries of each inset must be shown precisely on the proposals map and the proposals shown on an inset must not appear on the main map.

### **3.21 In the event of a contradiction between the written statement and the proposals map, the provisions of the written statement prevail.**

3.22 The development of **digital mapping** allows an authority to make plans, maps and diagrams in plans available in computerised format subject to appropriate copyright safeguards. Where it chooses to do so, it is important that all the information relating to the plan is held together in a single source directory which allows the plan and other data to be correlated and analysed more easily. Use of digital mapping will assist the authority when it comes to preparing revisions of plans. However, irrespective of whether the authority decides to make the plan available in digital format, it must still comply with the requirements of the Development Plan Regulations to make hard (i.e. paper) copies of plan proposals and other documents available for inspection during each step leading up to the adoption of the plan.

## **Resources**

3.23 The 1990 Act requires an authority to have regard to the likely availability of resources when preparing the general policies and proposals in UDP Part Is. The plan needs to be based on realistic assumptions about the resources likely to be available, and should take account of national economic policies, the financial policies of the various implementing agencies and the likely availability of land, labour and other material resources.

3.24 The reasoned justification should include an indication of the assumptions made about the resources likely to be available. It should have particular regard to the conservation of finite or non-renewable resources such as land and energy, the need for sustainable development, and the implications for public sector capital expenditure. Assumptions should be in broad terms and should not attempt an unrealistic degree of precision.

## **4. PLAN PROCEDURES AND IMPROVING THE PROCESS OF PLAN PREPARATION**

### **Better Management of the Process and Setting a Timetable for the Adoption of Plans**

4.1 The National Assembly is concerned about the length of time it takes to prepare and adopt plans. It is vital that authorities give adequate priority to plan preparation and review and improve their handling of the plan preparation process through better project management by:

- considering how long a plan will take to reach adoption and the staffing resources and budgets that are needed at various stages in the process. This should be done as soon as a decision is taken to prepare a plan, alter or replace it;
- publicly adopting a timetable leading to the adoption of the plan at the start of the plan preparation process;
- using principles of good project management to enable monitoring and review of progress towards adoption against the publicly adopted timetable.

4.2 Setting targets and the measurement of performance against those targets will need to be consistent with the framework of Best Value. Best Value will apply to planning services on the same basis as all other services provided by an authority. Therefore, the processes of preparation, alteration and replacement of development plans, as well as monitoring review procedures, will be subject to performance plans with targets for economy, efficiency and effectiveness. An authority will be expected to justify the way in which it chooses to carry out its development plan responsibilities.

4.3 A standard prescribed timetable, applicable to all plans across Wales, is not appropriate as there will be substantial variations both in the nature of planning issues being addressed by authorities and the context in which they are prepared. Timetables will also vary depending upon whether it is the first UDP in preparation for the area or the UDP is being altered or replaced.

4.4 The timetable for each UDP should be prepared in discussion with the National Assembly's Planning Division and should be adopted by the authority through a formal resolution of the Council. Authorities should endeavour to meet timetable targets and only exceptionally, where factors beyond an authority's control prevent the initial targets being attained, should a revised timetable be considered. The Planning Inspectorate should be consulted about the organisational arrangements and timing of the public inquiry, and the authority should discuss with them it a Service Agreement covering the local inquiry part of the overall development plan process.

## **Surveys and Information**

4.5 Under Part II of the 1990 Act, an authority is required to keep all matters under review that are expected to affect the development of their its area, or the planning of its development. The Act empowers it to institute surveys of its area to examine such matters, and requires it to keep under review:

- the principal physical and economic characteristics of the area;
- the size, composition and distribution of population (whether resident or otherwise) of the area; and
- the communications, transport system and traffic of the area.

An authority also has to take account of the effects for their areas of similar matters in neighbouring areas in consultation with the authorities concerned. In addition, the National Assembly may prescribe or direct particular matters to be surveyed. An authority should be selective and concentrate on material needed for plan preparation and monitoring. The results of surveys and research should be made available for public inspection on request.

4.6 In general, the best interests of the planning system will be served by ensuring that plans are as up-to-date as they can be at the time of adoption. However, new information will frequently become available during the course of the plan preparation which has a direct bearing on the plan's content and should be taken into account in the consideration of the plan proposals. New information may include that which derives from new national policies.

4.7 Wherever possible, new information should be incorporated into the plan before it is adopted, thereby ensuring the plan is up-to-date at the time of adoption. New information should be included in the emerging plan on a structured basis; there are only a limited number of opportunities to do this before the Deposit Plan must proceed to Inquiry. Any changes after that point then become matters to include as Proposed

Modifications. Where the plan is very close to adoption when new information becomes available, it may be preferable to adopt the plan and then start an early review of the plan. In general, "close to adoption" in these circumstances will be where any modifications process has already been completed, and/or where no further modifications to the plan are expected to be made. If necessary, the National Assembly may use its powers to direct the preparation of the necessary alterations within a specified period.

## **Consultation, Negotiation, and Public Participation**

### *Pre-Deposit Consultation*

4.98 The Development Plan Regulations do not specify how pre-deposit consultation should be undertaken by an authority but do require each authority to consult the following and take their representations into account before determining on the contents of the deposit plan:

- the National Assembly;
- the council of any community covered by the proposals;
- any adjacent local planning authority (Welsh or English);
- the Environment Agency Wales;
- the Countryside Council for Wales.

The authority must prepare a statement of any other persons they it has consulted, and the steps it has taken to publicise its proposals and provide an opportunity for interested parties to make representations. It is important for an authority to ensure that publicity for its proposals and mechanisms established for comment are sufficient to encourage all sectors of the community to be involved. Annex B identifies a wide range of bodies which local authorities are advised to consult where aspects of a plan's policies and proposals appear to affect their interests.

4.89 Local people and other interested bodies should have the opportunity to express their views on plan proposals before those proposals are finalised. The aim should be to encourage local people to participate actively in the preparation of plans from the earliest stages so that they can be fully involved in decisions about the pattern of development in their area. Consultation with the general public, community groups, conservation and amenity groups, business, development and infrastructure interests helps an authority secure a degree of consensus over the future development and use of land in their its area. It can also assist in reducing the time taken for plans to reach adoption by reducing the numbers of formal objections to policies and thereby reduce the time spent in the later stages of the plan preparation process.

4.10 The form of consultation required in particular circumstances is for each authority to determine and may best be tailored to the specific group targeted; thus key organisations and business groups may require a different approach to the general public and interest groups. Consultation on a minor alteration to a plan may, for example, require a less intensive process than for its full replacement. However, the National Assembly is keen to stress to authorities that it is **not** necessary for them to produce a full draft of a plan for the consultation process. Best practice suggests that consultation based on issues papers concerned with the broad strategy and direction of the plan may be a better way of identifying the likely general acceptability of plan policy and proposals during consultation. An authority may wish to hold early discussions with interested parties on key issues to seek a broad measure of agreement before producing worked up drafts of Parts I and II. Some examples of different consultation techniques and advice on best practice are included in "Development Plans - A Good Practice Guide" (DOE, HMSO, 1992).

## *Deposit; Discussion and Negotiation with Objectors*

4.11 When a UDP is placed on deposit for public inspection an authority must advertise this, and notify consultees, allowing six weeks for the submission of representations. The authority must send the National Assembly four copies of the plan and any other documents referred to in the advertisement, which must include a copy of the authority's statement on consultation and publicity. The authority should also notify statutory consultees (see paragraph 4.9 above) and any other organisation or individual it considers necessary.

4.12 Objectors and those supporting the plan should be encouraged to use a standard form setting out clearly any objection or supporting representation; objectors should indicate and the reasons for it the objection and the modifications sought. A **model objection form** is included in the National Assembly booklet "Unitary Development Plans - A Guide to Procedures"; this booklet also stresses that the acceptance of late objections by the authority will only be considered in exceptional circumstances. An authority should also encourage inform objectors that they may pursue their objections by using the to use written representations procedure if they do not wish to ask questions or discuss their objections appear at an the inquiry. **Objections pursued in this way carry as much weight with Inspectors as those made orally at inquiry.**

4.13 An authority should resolve as many objections as possible before the public inquiry, via discussion and negotiation. In order to facilitate this process of negotiation, objectors should state, as part of their objection, what changes to the plan would meet their objection.

4.14 An authority should consider carefully the impact of negotiated changes on the overall consistency of the plan and its strategy. Where a number of objections raise issues of a similar nature, a discussion involving all the objectors on those issues may prove useful. In other cases, it may be more appropriate for negotiations to be undertaken with individuals, for example, potential developers of particular sites identified in the plan. In many cases, it may not be possible to resolve an objection in its entirety through negotiated changes to the plan. In these circumstances it is important that the objector and authority are clear about the outstanding matters of disagreement. This will assist the Inspector at a subsequent inquiry into the plan. An authority should realise the implications of any non-statutory pre-inquiry proposed changes in terms of the subsequent need for a modifications process. The changes proposed, even if they are advertised and representations are sought, do not constitute formal changes to the plan. Therefore, even if the changes are upheld at inquiry, they will need to be formally incorporated into the plan after the inquiry through a modifications process. Further advice on such procedural matters is given in the National Assembly booklet "Unitary Development Plans - A Guide to Procedures".

### **Local Inquiry or Other Hearing**

4.15 An authority is required to arrange for a public inquiry or other hearing to be held to consider objections to a UDP which have been made in accordance with the Development Plan Regulations unless all objectors indicate in writing that they do not wish to appear. A formal hearing will only be appropriate in exceptional circumstances to consider an objection concerning matters of national security; in such a case there would be no requirement for it to be advertised, or for proceedings to be held in public. Informal hearings are a normal part of most inquiries to deal with less controversial objections. The Planning Inspectorate's advice note entitled "Development Plan Inquiries" provides advice to authorities on practical matters relating to the preparation and conduct of inquiries.

### **Inspector's Report**

4.16 An authority should make the report of the Inspector available within 8 weeks of its receipt, with

copies of the report being made available for inspection at the locations where the plan was deposited. The report should also be available for purchase at a reasonable fee as soon as practicable. In order to assist procedures after the inquiry, the Inspector's report will contain a list of all the recommendations made in the report.

### **Post-inquiry Procedures and Modifications**

4.17 Having considered the Inspector's report and recommendations, the authority will be required to place on deposit its decision on each of the recommendations in the Inspector's report. Where the authority chooses not to accept a recommendation, it must provide clear and cogent reasons for not doing so. An objection can still be made to a decision not to accept an Inspector's recommendation.

4.18 The authority will also need to decide whether there is a need to advertise modifications to the plan. Modifications may will be needed if, for example:

- the authority decides to accept an Inspector's recommendation which would involve a site or policy which had not been included in the deposit version of the plan proposals, for example upholding an objection which proposed a new site specific allocation;
- there are pre-inquiry changes to the plan proposed by the authority which are upheld by the Inspector's recommendations – even if these are subject to a process of advertisement and are open to objection, there will still be a need for a formal modifications process;
- the authority proposes (for whatever reason) to make further changes to the plan after the inquiry – perhaps to take on board new information. Authorities will continue to be encouraged not to use a modifications process for the sole intention of incorporating new information, but to look for an early review of the plan (see paragraphs 4.6 to 4.7). However, new information might be incorporated as part of a set of modifications being made for other purposes (e.g. in response to Inspector's recommendations). Authorities are advised to discuss the need for incorporating new information as modifications to a plan with the National Assembly's Planning Division.

4.19 Minimal changes, such as those to correct or update information, or correct grammatical or factual errors, which do not alter the meaning of a policy or reasoned justification can be made without formal modification procedures.

4.20 Where modifications to the plan are advertised post-inquiry, there is a statutory six-week period for making objections to those proposed modifications. The authority should decide whether objections to modifications justify a further public inquiry; guidance on this is contained in the National Assembly booklet "Unitary Development Plans – A Guide to Procedures".

### **Adoption**

4.21 The authority may resolve to adopt the plan, either as originally prepared or as subsequently modified provided that:

- any duly made objection to the plan has been considered (with or without a local inquiry);
- the National Assembly has not issued a "holding" direction or has called in the whole or part of the plan for approval;
- where the National Assembly has directed the authority to reconsider any proposals in the plan, it has satisfied the Assembly that it has made any necessary modifications, or the direction is withdrawn; and
- a period of at least 28 days has elapsed since the authority notified the

National Assembly and others that it is minded to adopt the plan.

## **Monitoring, Review, and the Alteration and Replacement of Plans**

### ***Monitoring Effectiveness***

4.22 An authority is required to keep under review the matters which affect the development of its area or the planning of that area. Plan policies and proposals should be expressed in a form which will facilitate monitoring and review. The reasoned justification should include an indication of how monitoring and review is to be carried out, emphasising the critical features upon which the plan is based.

4.23 A straightforward system is required to reach judgements on the effectiveness of the plan. Aims, objectives and targets should provide a consistent basis:

- for monitoring whether the plan is achieving what it sets out to achieve;
- for identifying where policies need to be strengthened, maintained, changed in some way, or - in cases where the policy has served no purpose – deleted from the plan.

This monitoring process will form an input to decision making on the need for, and scope of, a plan review.

4.24 An authority Authorities should publish the results of plan monitoring on a regular basis. A number of authorities already do this in the form of an annual UDP monitoring reports; these should include all housing and other development land. "Development Plans - A Good Practice Guide" (DOE, HMSO, 1992) includes further examples of good practice in the monitoring and evaluation of plans.

### ***Plan Review***

4.25 Plans must be reviewed regularly. The timing and frequency of review will depend upon local circumstances, including the arrangements put in place for reviewing the strategic framework for transport policies and proposals referred to in paragraph 1.18, but effective monitoring of a plan can provide the necessary information on which a decision on review can be taken. Unforeseen matters or the issue of new or revised national policy guidance may have a significant bearing on the policies or proposals in a plan and make it sensible to review all or part of it.

4.26 Plan reviews should also be the opportunity for an authority to consider whether the policies and/or proposals in the plan have proved useful in either encouraging development where it was sought or in preventing development in areas where it was not appropriate. The review process offers a positive opportunity to consider if plans could be made even more better focused and slimmer still more concise. Evidence that policies or proposals have served no useful purpose may be a trigger for removing them from the plan. It is also the opportunity to re-assess the existing site allocations where development has not yet been given planning permission. Account will need to be taken of any revised national policy guidance and the opportunity taken to remove less sustainable site allocations and replace them with more sustainable ones. It may also be an opportunity to consider the realism of site allocations made and whether alternative uses might now be more appropriate (for example, a site allocated in a plan for employment use, but where the prospects of development seem slim, might be suitable for housing or mixed-use development).

4.27 While there are no rules on how often a plan should be reviewed, it is expected that, plans should be

reviewed **in full at least once every 5 years**, and partial reviews may be appropriate (e.g. on particular topic areas) on a more frequent basis.

### ***Alteration and Replacement of Plans***

4.28 *Replacement of a plan* (i.e. a complete new plan) will be justified where a review has indicated that the existing plan is substantially out-of-date and the scale of alterations therefore needed is fundamental. *Alterations* to plans are more likely to be appropriate where a partial rolling forward of the plan is needed, or where forecasts and assumptions have changed, or where additional policies are needed to deal with unforeseen issues. Within this broad framework a rolling programme of alterations following regular review of plans will mean that plans remain up-to-date and support the objectives of the plan-led system of providing certainty; quicker, rational and consistent decisions; and a reduction in the number of misconceived planning applications and appeals.

4.29 Where alterations are proposed, the changes from the existing policies and proposals should be indicated clearly when the alterations are made available for public inspection. When deciding to make alterations to a plan, an authority should consider the degree of inter-relationship between policies and the potential effects of changing one policy on others in the plan. Selective alterations which do not consider the implications of connections between different policy areas in the plan may have damaging consequences for the coherence and effectiveness of the plan as a whole. When deciding on the structure and content of their development plans, an authority should consider the extent to which the way in which a plan is set out will facilitate the easy review and alteration of that plan at a subsequent date. For example, it may be possible to undertake selective reviews of parts of a plan on a geographical basis if the original plan includes separate sections with specific policies and proposals for sub-areas within the plan. This will also provide flexibility to deal with issues that arise in a particular area which were not apparent when the plan was originally adopted.

4.30 Where alterations to a plan are being made, the Development Plan Regulations do not allow objectors to make objections on the basis that an authority has decided not to alter a particular policy. To be duly made, objections must focus on the alterations proposed, including any implications of the alterations for other parts of the plan which are not being altered. When depositing alterations to the plan, an authority should identify those policies in the plan which are not being altered but which they consider to be linked in a direct way to those that are being altered. This will assist objectors to identify the scope of possible objections to the alterations proposed. However, it will be for the authority to determine whether a representation about a linked policy should be considered as an objection which must be considered at an inquiry.

4.31 An authority may find it helpful to discuss the scope of alterations with the National Assembly's Planning Division prior to any consultation or the formal deposit of the proposals. The Assembly has powers to direct the preparation, alteration or replacement of plans within specified timescales. The use of these powers will be considered when an authority is not taking adequate steps to keep its development plan up-to-date.

### **Best Practice**

4.32 An authority will be able to improve its management of the plan preparation and adoption process by learning from the best practice of others. Good practice advice is already contained in "Development Plans – A Good Practice Guide" (DOE, HMSO, 1992) (see also paragraph 2.10 above for advice on good practice

in policy formation). Further best practice advice on plan project management, effective consultation techniques, negotiation and monitoring and review will inform the process in due course.

## **5. NATIONAL ASSEMBLY INVOLVEMENT IN THE PLAN PROCESS AND HIGH COURT CHALLENGE**

### **National Assembly Involvement**

5.1 The National Assembly may become involved in the development process via:

- *Consultation*

The Assembly is a statutory consultee for UDPs and should be consulted at an early stage of the plan-making process (see Annex B). Ongoing dialogue with the Assembly may prevent the need for more formal interventions to be made later in the plan process;

- *At deposit stage*

The Assembly may register objections to the deposited plan;

- *Direction to modify*

The 1990 Act gives the Assembly the power to issue a direction to an authority to modify its plan in a specified manner before adoption. The Act also gives the Assembly powers to direct that a plan shall be altered or replaced.

- *Call-in of plan*

A plan, or part of a plan, can be called-in for the Assembly's determination.

The Assembly will scrutinise plans, alterations to plans, and replacement plans to identify whether they are consistent with national guidance and whether there are conflicts with the guidance which do not appear to be justified by local circumstances. The Assembly's powers to direct modifications to the plan or call-in all, or part, of a plan for its own determination will be used as necessary, albeit sparingly and as a last resort. Further details of the circumstances in which such powers might be used are given in the Assembly booklet "Unitary Development Plans - A Guide to Procedures"

### **High Court Challenges**

5.2 Section 287 of the 1990 Act allows any person to challenge the validity of a development plan or any alteration or replacement plan on the grounds that it is not within the powers conferred by Part II of the Act, or that requirements in that Part of the Act or regulations made under it (e.g. the Development Plan Regulations) have not been complied with. In such circumstances they may make an application may be made to the High Court to have the plan or part of the plan quashed. Applications must be made within six weeks of the date of the first notice published that the plan has been adopted.

5.3 Where all or part If the whole of a plan is quashed as a result of a successful challenge under Section



287, the Courts have determined that the effect is that those policies or proposals quashed are treated as if they had not been included in the plan when it was deposited. authority would need to deposit afresh a complete set of proposals. Where only part of the plan is quashed only the remaining parts of the plan will retain adopted status, and the authority will have to bring forward formal alterations to the plan if it wishes to re-insert back into the plan the policies and proposals that have been in place of those quashed. In the event that the whole plan is quashed by the court, the authority would need to deposit a complete set of proposals.

## **6. CANCELLATION OF PREVIOUS ADVICE**

6.1 Planning Guidance (Wales): Unitary Development Plans (WO, 1996) is hereby cancelled. Guidance provided in remaining parts of PPG 12 (Wales): Development Plans and Strategic Planning Guidance in Wales, (WO, 1992) will continue to be of relevance for structure plans and local plans taken forward by authorities in accordance with the provisions of Schedule 5 to the Local Government (Wales) Act 1994.

## **ANNEX A**

### **TRANSITIONAL ARRANGEMENTS**

#### **Introduction**

A1. Full details of arrangements for the commencement of UDPs and transitional provisions are set out in Part II and Part III of Schedule 5 to the **Local Government (Wales) Act 1994**. Advice on transitional arrangements contained in this Annex is summary guidance only. Reference to "transitional provisions" in this Annex means the provisions of Part III of Schedule 5 to the

1994 Act. In National Parks the way in which the transitional provisions can be taken forward may depend on the area prescribed by the National Assembly (see paragraph 2.5 of the main paper).

#### **Plan Inheritance – Continuation of Structure, Local and Old Development Plans**

A2. Every existing plan (whether approved by the Secretary of State or adopted by the authority) which relates to any part of Wales continued in force on and after 1 April 1996. An existing plan is defined as a structure plan, local plan and any old development plan to the extent that it was in force in any area of Wales immediately before 1 April 1996. An existing plan includes any alteration to or replacement of that plan made after 1 April 1996,

under the transitional provisions. Local plan includes a minerals local plan, waste local plan, and any "saved" local plan in terms of the Planning and Compensation Act 1991.

A3. An existing plan and any plan prepared under the transitional provisions will cease to have effect for the area of the appropriate authority when a UDP becomes operative for that area.

#### **Development Plans: Transitional Provisions**

A4. The transitional provisions apply in relation to the area of any authority in Wales from 1 April 1996 until the UDP for that area has become fully operative.

A5. A number of authorities received the Secretary of State's approval or permission to continue structure or local plan work (under Chapter II of Part II to the Town and Country Planning Act 1990) for part or all of their areas. These provisions were made to enable plan work in progress to be continued to adoption where considered expedient or desirable at that time.

A6. Where structure or local plan work has not been taken forward, these draft plans will remain a consideration in development control decisions, the weight to be attached to them increasing the further they have been taken towards adoption.

### **Incorporation of Current Policy in Unitary Development Plans**

A7. When preparing a UDP for its area, an authority may identify a policy in the plan as an "existing policy". An existing policy is a policy the substance of which is contained in a local plan in force for the appropriate area of the UDP; more guidance on this is contained in the National Assembly booklet "Unitary Development Plans - A Guide to Procedures".

### **Call-in of UDP**

A8. If the National Assembly has called in a UDP, in whole or in part, for approval and where this subsequent approval is for part of the plan only, the plan will only become fully operative when all parts of the UDP have become operative. The authority cannot bring different parts of the plan into operation at different times.

### **Revocation of Structure Plan**

A9. If the National Assembly approves all or any part of Part I of a UDP for the whole or part of an authority's area it may, by order, wholly or partly revoke an existing structure plan for the area covered by the appropriate UDP Part I. The Assembly may also make any necessary or expedient amendments to the existing structure plan. The Assembly is required to consult the authority for the area before making such an order.

### **Local Plans to Prevail over Structure Plans**

A10. The provisions of a local plan in force immediately before 1 April 1996 will prevail for all purposes over any conflicting provisions in the structure plan in force for the area unless the local plan is one which:

- before 1 April 1996 had received a statement from the structure planning authority specifying non-conformity with the structure plan; and
- has been neither altered nor replaced after that statement was supplied.

A11. If a local plan has been adopted or approved by an authority after 1 April 1996, the provisions of that local plan will prevail for all purposes over any conflicting provisions in the structure plan for that area.

### **Revocation of Old Development Plans**

A12. After consulting the authority, the National Assembly may, by order, wholly or partly revoke an old development plan continued in force under paragraph 1 of Part IA of Schedule 2 to the 1990 Act.

### **Duty in Relation to Existing Structure Plan**

A13. When determining applications for planning permission, the authority has a duty to seek to achieve the general objectives of the structure plan in force for that area.

### **Unitary Development Plans to Prevail Over Other Plans**

A14. Where a UDP is operative in part (but has not become fully operative - see A.8 above) the provisions of the UDP shall prevail where there is any conflict with any structure plan, local plan, or minerals local plan or waste local plan, including any such plan completed after 1 April 1996, under the transitional provisions.

### **Planning Blight**

A15. Authorities will need to carefully study Schedule 13 to the 1990 Act as amended by the 1994 Act to ascertain what development plan proposals in force immediately before 1 April 1996 can still blight land in their area, and the planning blight consequences of continuing preparation of development plan work in progress before 1 April 1996 under the transitional provisions. Once an authority publishes proposals in its draft UDP these may also have a planning blight effect. Under Section 13 (2) of the 1990 Act a draft UDP which it proposes to adopt, this will trigger the planning blight provisions as will the publication of proposals to alter or replace an adopted UDP.

### **Other Provisions**

A16. Other provisions included in Part III of Schedule 5 to the 1994 Act, e.g., those on compensation, may also need to be addressed.

## **ANNEX B**

### **CONSULTEES FOR UNITARY DEVELOPMENT PLANS**

B1. Paragraphs 4.8 to 4.10 contain advice on pre-deposit consultation. An authority should decide who they need to consult in addition to statutory consultees in the period before deposit of the plan. Copies of the plan proposals must also be sent to the statutory consultees when the plan is deposited.

B2. An authority should consult Government departments, national organisations and other bodies where aspects of a plan, or proposals for its alteration or replacement, appear to affect their interests.

B3. **The National Assembly** has responsibility for **a wide range of policy matters including agriculture, historic buildings, environment, housing, transport, industry, education and health**. The Assembly's **Planning Division** will co-ordinate consultations within the Assembly. Authorities should consult with the Planning Division early in the plan preparation process.

B4. **Government Departments** should be consulted on the policy areas outlined below:

<b>Ministry of Defence</b>	Matters likely to affect its land holdings and installations or where large scale disposals of MOD land may be being considered.
<b>HM Prison Service</b>	Development in the vicinity of penal establishments.
<b>Home Office</b>	Civil defence matters.

B5. Other agencies and organisations should be consulted on the following issues:

<b>Airport Operators</b>	Policies and proposals in relation to aviation matters, those in the vicinity of airports, or which would affect airport infrastructure or operations.
<b>British Waterways, canal owners and navigation authorities</b>	All transport, recreation, tourism and heritage issues relating to inland waterways and land adjacent to inland waterways.
<b>Coal Authority</b>	Matters affecting coalfield areas.
<b>Chambers of Commerce, local CBI and local branches of Institute of Directors</b>	Economic development, business, and employment land issues.
<b>Civil Aviation Authority</b>	Policies for areas in the vicinity of airports.
<b>Commission for Racial Equality</b>	Proposals likely to have significance for ethnic minorities.
<b>Countryside Council for Wales</b>	Should be consulted on all UDPs.

<b>Crown Estate Office</b>	Proposals which affect any of the Crown Estates.
<b>Disability Wales</b>	All proposals likely to have particular significance for the disabled people.
<b>Environmental groups at national, and regional and local level</b>	Environmental issues in the plan and their relationship to other policies and proposals.
<b>Electricity, Gas and Telecommunications Companies and the National Grid Company</b>	Any proposals likely to have significant infrastructure implications.
<b>Environment Agency Wales</b>	Should be consulted on all UDPs.
<b>Environmental Services Agency (Waste)</b>	Matters relating to waste disposal.
<b>Equal Opportunities Commission</b>	All proposals likely to have equal opportunities implications.
<b>Fire and Rescue Service</b>	Public safety issues.
<b>Forestry Commission Wales</b>	Wherever forestry is a feature of strategic planning, either as an industry, an environmental feature, or as a recreation resource.
<b>Health and Safety Executive (HSE)</b>	<p>All significant matters relating to health and safety, including development at or near to hazardous installations:</p> <ul style="list-style-type: none"> <li>● notified to HSE under the <i>Notification of Installations Handling Hazardous Substances Regulations 1992</i>; or,</li> <li>● granted hazardous substances consent under the <i>Planning (Hazardous Substances) Act 1990</i>; or,</li> <li>● to which Regulations 6-12 of the <i>Industrial Major Accident Hazard Regulations 1984</i> apply; or,</li> <li>● to which Regulations 19-27 of the <i>Pipeline Safety Regulations 1996</i> apply; or,</li> <li>● to which condition 8 of the standard conditions of the <i>Public Gas Transporters' Licences</i> (laid under the Gas Acts 1986 and 1995) apply; or,</li> </ul>

- sites for which HSE has acquired information under Regulation 26(4) of the *Ionising Radiation Regulations (1985)*; or,
- any licenced nuclear site; or,
- any licenced explosives factory, magazine, or harbour areas.

Issues relating to housing provision in plans.

**The House Builders Federation**

**Local Community, conservation and amenity groups, including Local Agenda 21 Groups/Civic Societies and Local Interest Groups**

Should be consulted on all UDPs.

**Local Planning Authorities**

Adjacent local planning authorities (Welsh or English) should be consulted on a neighbouring authority's UDP.

**Local Transport Operators, Freight Transport Associations**

All proposals relating to transport generally and measures which are likely to involve increased use of rail, bus and other public transport services. Local authorities should also consider the need to consult bodies protecting the interest of rail public transport passengers (e.g. the Transport Users Consultative Committees).

*(relocate above)*

**Disability Wales**

All proposals likely to have particular significance for the disabled.

**National Playing Fields Association**

Issues relating to open space and recreation.

**Police Crime Prevention Architectural Liaison Officers**

Should be consulted on all UDPs to ensure that crime and disorder issues are taken into account. prevention measures.

<b>Post Office Property Holdings</b>	Proposals affecting Post Office and other related services, or land holdings. For example, new settlements or major residential developments, town centre developments, community services, pedestrian schemes, or any other proposals likely to significantly affect the volume of mail for collection or delivery within an area, or the efficiency of the transfer of mail by road.
<b>Quarry Products Association</b>	Matters relating to mineral extraction.
<b>Rail Companies and the Rail Freight Group</b>	Major development proposals likely to lead to an increase in demand for rail services. Transport policies in plans where they involve rail services, both passenger and freight.
<b>Railtrack Plc</b>	All proposals relating to transport generally, and in particular, those which have any bearing on the operation of railways. Major development proposals which would lead to a large increase in demand for rail services.
<b>Sports Council for Wales</b>	Matters relating to sport and physical recreation generally.
<b>Strategic Rail Authority</b>	Matters relating to the development of the rail network.
<b>Town and Community Councils</b>	Should be consulted on all UDPs.
<b>Training and Enterprise Councils (TECs)</b>	Economic development, business and employment issues.
<b>Wales Tourist Board</b>	Matters relating to tourism generally.
<b>Water Companies</b>	All matters concerning water and sewerage services and the provision of such services to new developments.
<b>Welsh Development Agency</b>	Should be consulted on all UDPs.

## **ANNEX C**

### **FURTHER GUIDANCE ON PROCEDURES AND BEST PRACTICE**

"Unitary Development Plans - A Guide to Procedures" National Assembly, 2000 (Draft)

- 1.
2. "Development Plans - A Good Practice Guide" DoE, HMSO 1992
3. "Development Plan Inquiries" - Guidance for Local Planning Authorities from the Planning Inspectorate, 1997
4. "Better Local Plans - A Guide to Writing Effective Policies" Planning Officers Society, 1997
5. "Planning and Development Briefs - A guide to better practice" DETR, 1998
6. "Planning for Sustainable Development : Towards Better Practice" DETR, 1998
7. "Proposals for a Good Practice Guide on Sustainability Appraisal of Regional Planning Guidance" DETR 1999
8. "Guidance on Local Transport Plans in Wales" National Assembly, 1999