

DRAFT

PLANNING POLICY WALES

(Internal Consultation)

Guidance to supplement **Planning Policy Wales** is contained in the series of topic based Technical Advice Notes. Further information is available from the Planning Division, **National Assembly for Wales**, Cathays Park, Cardiff, CF10 3NQ, by telephoning (029) 2082 3585 or on the **National Assembly for Wales' web site ([www.wales.gov.uk/planning](http://www.wales.gov.uk/planning) .....**)

This consultation document is available on the National Assembly for Wales' web site .....

***Please note that there will be further changes to the format of the document for the public consultation version. The policy content will not change, subject to comments made by EPT.***

***The public consultation version will seek views on the layout of the document, its ease of use and the usefulness of cross-referencing.***

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## FOREWORD

Set out NAW overall aims and objectives that will underpin everything in this and other documents.

## 1. INTRODUCTION

1.1 **‘Planning Policy Wales’** sets out the **National Assembly for Wales’ (the Assembly)** land use planning policies **and** is supplemented by a series of Technical Advice Notes. Procedural advice is given in **National Assembly for Wales / Welsh Office** circulars. **‘Planning Policy Wales’, the Technical Advice Notes and circulars together comprise national planning policy which** should be taken into account by local planning authorities in Wales in the preparation of development plans. They may be material to decisions on individual planning applications and will be taken into account by the **Assembly** and **Planning** Inspectors in the determination of called-in planning applications and appeals. Advice on the preparation of unitary development plans is contained in ‘Planning Guidance (Wales): Unitary Development Plans’, 1996 (**‘Planning Policy Wales – Unitary Development Plans’ is to be issued in 2001**).

1.2 Reference **documents (listed at the end of each section)** provide information **that** should be read in conjunction with this **document**.



## 2. LEGISLATION

2.1 The primary legislation related to land-use planning is contained in:

- the Town and Country Planning Act 1990;
- the Planning (Listed Buildings and Conservation Areas) Act 1990;
- the Planning (Hazardous Substances) Act 1990.

Each of these Acts has been amended by the Planning and Compensation Act 1991.

Other amendments, related to the establishment of unitary authorities in Wales and requiring authorities to produce unitary development plans, are contained in the Local Government (Wales) Act 1994. **European Directives and the judgements of the European Courts also have a bearing on the Planning system.**

2.2 The main instruments of subordinate legislation are:

- the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (SI 1995 No 418);
- the Town and Country Planning (General Development Procedure) Order 1995 (GDPO) (SI 1995 No 419);
- the Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order) (SI 1987 No 764);
- the Town and Country Planning (Development Plan) Regulations 1991 (SI 1991 No 2794);
- the Town and Country Planning General Regulations 1992 (SI 1992 No 1492).

## 3. GENERAL PRINCIPLES

### 3.1 Sustainable Development

**3.1.1 The Assembly will promote development that meets the needs of the present without compromising the ability of future generations to meet their own needs, i.e. ‘sustainable’ development. This involves supporting the Assembly’s Sustainable Development Scheme<sup>1</sup>, and the UK vision of sustainable development<sup>2</sup>, which is based on four ‘objectives’ which need to be integrated and pursued simultaneously:**

- social progress which recognises the needs of everyone;
- effective protection of the environment;
- prudent use of natural resources; and
- maintenance of high and stable levels of economic growth.

**3.1.2 Sustainable development, as set out in ‘Learning to Live Differently’<sup>1</sup> and in ‘Better**

Wales'<sup>3</sup> (the Assembly's Strategic Plan), provides the over-arching framework within which the Assembly will develop any new strategies, policies, programmes and grant schemes, and will underpin the review of its existing ones.

**3.1.3 The Assembly's commitment to the principles of sustainable development is based on the duty under Section 121 of the Government of Wales Act<sup>4</sup> to promote sustainable development in the exercise of its functions. The Act requires the Assembly to make a Scheme setting out how it proposes to implement this duty. The Sustainable Development Scheme is the framework setting out what the Assembly intends to do, and by when, and how progress will be monitored. The Assembly will promote sustainable development:**

- **through its decision-making (sustainability is at the heart of the Assembly's decision-making and is central to its work);**
- **through its strategic policies which contribute to sustainable development, e.g. 'Planning Policy Wales';**
- **by working with others, e.g. local government, business, Assembly Sponsored Public Bodies (ASPBs), Executive Agencies;**
- **through specific policy actions.**

**3.1.4 A key role of the planning system is to provide for homes, infrastructure, investment and jobs in a way which is consistent with the principles of sustainable development. Both development plans and the development control process have the task of delivering this objective. Advice will be issued on the principles of sustainability appraisals of local authorities' development plans in due course, to ensure that the planning system is playing its full part in the delivery of the Assembly's strategy and objectives for Wales.**

**3.1.5 The planning system must help in the process of balancing and integrating the three broad arms of sustainability – economic, social and environmental well being – in order to meet the development needs of this generation while safeguarding those of the future. The UK Government has set down a number of broad strategic sustainability objectives. The following objectives should be taken into account in the preparation of development plans and the control of development throughout Wales:**

- **maximise opportunities for community development and social welfare;**
- **promote development patterns which minimise the need to travel;**
- **maximise opportunities to develop cultural heritage and diversity, and encourage conservation of the historic environment;**
- **maximise opportunities for appropriate mixed land uses in urban areas;**
- **maximise opportunities for the development of affordable housing for local needs;**
- **maximise environmental protection for people, natural and cultural resources;**
- **prevent or manage pollution and promote good environmental practice;**
- **maximise the opportunities for the re-use of suitable previously developed or unused land and property in urban areas;**
- **promote development which maximises opportunities for the development of an integrated transport system;**
- **ensure that development does not produce irreversible, harmful effects on the natural**

environment;

- maximise environmentally suitable opportunities for the use of renewable resources and traditional materials;
  - minimise the use of non-renewable resources and promote natural resource efficiencies;
  - optimise the opportunities for integrated waste management, mineral use and energy production;
  - promote quality, durable, environmentally suitable and flexible employment opportunities;
  - maintain and enhance the vitality and viability of town centres;
  - maximise opportunities for the use of indigenous resources;
  - promote appropriate development to diversify or enhance the rural economy and the countryside;
- 
- protect the best employment sites from alternative development which could be accommodated elsewhere;
  - promote development that embodies a very high level of energy efficiency; and
  - maximise pedestrian and cycle access within, and to all, development.

**3.1.6 As the elected bodies for their areas, local authorities have the opportunity to integrate services at a local level and provide a framework for community development. Authorities are also tasked to prepare community strategies, Local Agenda 21 strategies, Unitary Development Plans, Local Transport Plans, and Local Biodiversity Action Plans, describing how they will pursue sustainability locally. Linking the aspirations and actions of the Assembly, local authorities, businesses, the public and voluntary sectors and the community will be essential for the delivery of sustainable development in Wales.**

**3.1.7 If there are serious risks of damage to the environment, the Assembly will be prepared to take precautionary action and, on the basis of the ‘precautionary principle’, to limit environmental damage, even where scientific knowledge is not conclusive. The general approaches to be followed are:**

- respecting environmental limits, so that resources are not irrecoverably depleted or the environment irreversibly damaged: this implies, for instance, contributing to protection of the planet’s climate; protecting and enhancing biodiversity; minimising harmful emissions; promoting sustainable use of natural resources;
- applying the precautionary principle that cost-effective measures to prevent possibly serious environmental damage should not be postponed just because of scientific uncertainty about how serious the risk is;
- using scientific knowledge to aid decision-making, and trying to work out in advance what knowledge will be needed so that it can be researched; and/or
- preventing pollution as far as possible, and making the polluter pay for the damage done by pollution, and more generally trying to ensure that costs are met by those whose actions incur them.

## **References:**

- 1. 'Learning to Live Differently', National Assembly for Wales, November 2000**
- 2. 'A better quality of life', the UK Strategy for Sustainable Development, May 1999**
- 3. 'Better Wales', the National Assembly for Wales' Strategic Plan, January 1999**
- 4. Government of Wales Act 1998, Section 121**

## **3.2 Human Rights**

**3.2.1 The Human Rights Act<sup>1</sup> came into force on 2 October 2000 to incorporate the provisions of the European Convention on Human Rights (ECHR) into UK law and enable the UK Courts to enforce these rights. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every individual together with the limitations placed on these rights in order to protect the rights of others and of the wider community. The Human Rights Act makes it unlawful for a public authority to act incompatibly with these ECHR rights except where, as a result of primary legislation, it could not have acted differently.**

**3.2.2. The legislation impacts on the planning system and changes to that system may be necessary to comply with the new legislation. Further guidance on any changes will be issued as and when necessary.**

## **Reference:**

- 1. The Human Rights Act 1998.**

## **3.3 Sustainable Use of Land**

**3.3.1 Previously developed (or brownfield) land should, wherever possible, be used in preference to greenfield sites, particularly those of high quality agricultural or ecological value. The Assembly recognises that not all previously developed land is suitable for development. The redevelopment of some previously developed land may not be sustainable due to its location, the existence of valuable habitats, or because it is highly contaminated. Many sites in built-up areas however, meet characteristics that are generally considered sustainable, including those:**

- in and around existing centres where there are vacant and under-used land, commercial property or housing;
- in suburban areas close to public transport nodes which might support more intensive use for housing;
- to secure land for urban extensions; and
- to facilitate the regeneration of existing communities.

**3.3.2** If the Assembly's objectives for the more sustainable use of land and buildings and the re-use of previously developed sites are to be achieved, local authorities will need to take a more proactive approach. Wherever possible, local authorities should work with landowners in order that suitable sites are brought forward for development and to secure a coherent approach to renewal. In some instances the local authority may need to purchase land in order to facilitate redevelopment. Wherever possible this should be done by negotiated agreement but may involve the use of compulsory purchase powers.

## **DEFINITION OF PREVIOUSLY DEVELOPED LAND**

### **(FOR THE PURPOSES OF DRAFT PLANNING POLICY WALES)**

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage (see note 1 below) of the development is included, as are defence buildings, and land used for mineral extraction and waste disposal (see note 2 below) where provision for restoration has not been made through development control procedures.

Excluded from the definition are:

- land and buildings currently in use for agricultural or forestry purposes;
- land in built-up areas which has not been developed previously- e.g. parks, recreation grounds and allotments- even though these areas may contain certain urban features such as paths, pavilions and other buildings;
- land where the remains of any structure or activity have blended into the landscape through the process of time so that it can reasonably be considered as part of the natural surroundings;
- previously developed land that is contributing to nature conservation to the extent that it could outweigh the re-use of the site; and
- previously developed land subsequently put to an amenity use.

## **Notes:**

**1. The curtilage is defined as the area of land attached to a building. All of the land within the curtilage of the site will also be defined as previously -developed. However this does not mean that the whole area of the curtilage should therefore be redeveloped e.g. where the footprint of a building only occupies a proportion of a site of which the remainder is open land (such as a hospital) the whole site should not normally be developed to the boundary of the curtilage. The local planning authority should make a judgement about site layout in this context bearing in mind other planning considerations such as policies for the protection of open space and playing fields or development in the countryside. They should consider how the site relates to the surrounding area and requirements for on-site open space, buffer strips, landscaped areas, etc.**

**2. This relates to minerals and waste sites which would otherwise remain unrestored after use because the planning permission allowing them did not include a restoration condition. All other such sites will be restored to "greenfield" status, by virtue of the planning condition.**

## **3.4 Spatial Planning**

**3.4.1 The Assembly is committed to the preparation of a National Spatial Planning Framework for Wales. This will be a spatial expression of the Assembly's policies and will address issues of restraint and development on a broad scale; be a context for major decisions and the allocation of resources; support other Assembly initiatives such as the National Economic Development Strategy, the Transport Framework and the Sustainable Development Scheme; and be a context for local planning authority plan making and decision making. Prior to the completion of the National Spatial Planning Framework the Assembly's spatial strategy is expressed through the guidance for different topics in this document. The central strands of this strategy are summarised in the following paragraph .**

**3.4.2 Policies and proposals affecting land allocation should:**

- ensure the protection of statutorily designated areas and of the countryside, the conservation of landscapes, historic sites and natural habitats, the undeveloped coast, the protection of the best and most versatile agricultural land and conservation of the urban environment.**
- safeguard non-renewable resources such as minerals.**
- ensure that the economic potential of Wales is achieved at an appropriate scale and nature. The success already evident in some parts of North East and South East Wales, along the M4/A55 corridors, and parts of the Severn Valley is to be maintained. Economic opportunities in Western parts of Wales and areas in need of regeneration such as the South Wales Valleys, the industrial villages to the west of Wrexham, and some of the traditional coastal resorts, must be realised.**
- secure regeneration in existing urban areas which require it, and ensure the quality of life in these areas including the availability of housing, employment, facilities and adequate**

leisure and open spaces which will make them desirable places to live. Urban villages will have a role to play.

- secure a thriving rural economy where agriculture related activities are complemented by tourism and other forms of employment to support rural, village and market town communities with sufficient housing for their needs and adequate access to facilities and services.
- secure an appropriate settlement pattern to meet the needs of the economy, the environment and social well-being, including maintaining and improving the vitality, attractiveness and viability of town, district, local and village centres. This means a preference for retail, leisure and other uses in centres, and support for mixed development.
- locate developments where they can maximise accessibility between them and existing facilities and areas of development by walking, cycling and public transport and where reliance on the use of the private car can be minimised. Development in centres along existing transport corridors and approaches such as clustering economic development could contribute to reducing travel growth.
- secure improvements to transport facilities and services which concentrate on maintaining or improving accessibility to communities, services, facilities, to securing economic growth, and/or to improve safety and amenity.
- contribute to the mitigation of the effects of climate change.

### **3.5 Europe**

3.5.1 Both the European Spatial Development Perspective (ESDP) and the European INTERREG IIIB community programmes on transnational co-operation on spatial planning will provide a European context for planning guidance and the preparation of development plans. Other European Funding regimes will also be relevant, particularly the European Structural Funds.

3.5.2 The reform of the European Union's Structural Funds for the period 2000-2006 is having a major impact on regional economic development strategies in Wales and will have an impact on the demand and supply of employment land. West Wales and the Valleys have been designated as eligible for Objective 1, a Single Programming Document has been agreed and the programme is being implemented. Objective 2 status has been secured for parts of Powys, Cardiff, and Newport and implementation of the agreed programme will commence in 2001. Objective 3 covers all of Wales outside the Objective 1 area and implementation of an agreed programme has begun. In addition, four programmes implementing the European Community Initiatives in Wales have been published and a Rural Development Plan for Wales has been agreed with the European Commission, also to begin in 2001.

### **3.6 Climate Change and Planning<sup>1,2</sup>**

3.6.1 The UK Climate Impacts Programme predicts that the Welsh climate is getting warmer and wetter with more precipitation in winter and less in summer. Predictions indicate that sea levels will rise and there will be higher wind speeds with more frequent and more violent storms and more very severe gales<sup>3</sup>.

**Climate change will:**

- **change our natural environment and built heritage;**
- **alter the environment in which our economy operates;**
- **increase the importance of water management to prevent flooding and ensure an adequate supply of water.**

**3.6.2 It is not certain how much the climate will change. However, changes in climate would present risks to people, property and resources, and would also create new opportunities. Some form of carefully planned adaptation would be necessary and close co-operation and consultation across sectors would be needed to ensure that mitigation measures are fully integrated. The planning system will have a role to play in integrating these various sectors.**

**3.6.3 Planning also has a direct role to play in relation to some of the effects of climate change (i.e. flooding and subsidence). Many areas of Wales may suffer damage from both severe winter storms and, in dry summers, subsidence as the ground dries out. There may be a mismatch between future climate change and the location and design of buildings, and both planning and the building industry must take account of the weather conditions that may prevail during the life of a development. Warmer, drier summers would lead to increased pressures on water supply. The planning of development should therefore be linked to the availability of water resources and the environmental cost of supplying the predicted increase in demand.**

**3.6.4 Sea level rises coupled with more rain in increasingly intense episodes would lead to more flooding in coastal areas and low lying areas inland. In consequence, planning of developments in flood prone coastal areas and flood plains should take account of the likely frequency and severity of floods expected during the life of the buildings. [See Section 20 for planning policy on Flood Risk and Climate Change]**

**References:**

- 1. 'Climate Change: the UK Programme', Department of the Environment, Transport and the Regions, Scottish Executive, National Assembly for Wales and Department of the Environment (Northern Ireland), 2000.**
- 2. 'Climate Change: Assessing the impacts – identifying the responses', DETR/UK Climate Impacts Programme, 2000.**
- 3. 'Wales: Changing Climate, Challenging Choices – a Scoping Study of Climate Change Impacts in Wales' Ed. JF Farrar and P Vaze, National Assembly for Wales, 2000.**

## **4. THE PLANNING SYSTEM**



## 4.1 The Planning System

4.1.1 The planning system regulates the development and use of land in the public interest. It should reconcile the needs of development and conservation, and secure economy, efficiency and amenity in the use of land, and protect natural resources **and the built heritage**, thereby contributing to sustainable development.

4.1.2 The planning system must provide for an adequate and continuous supply of land, available and suitable for development. **It must do this in a way that is consistent with the principles of sustainable development**, taking account of the objectives, policies and proposals of the development plan, the scale of development proposed, the **conservation and enhancement** of the countryside and of statutorily designated areas, the conservation of landscape, historic sites and natural habitats, the protection of the best and most versatile agricultural land and the conservation of the urban environment. Full and effective use should be made of land within existing **developed** areas, including the bringing into use of derelict, unused or waste land and through conversion, redevelopment **and the restoration and re-use of buildings**. The development of land in **towns, villages and cities**, particularly on previously developed sites, provided this creates or maintains a good living environment, should be considered before the development of greenfield sites. This will assist urban regeneration and reduce pressure for development on greenfield sites and in the countryside.

4.1.3 Development proposals are best determined locally by planning authorities which know their area, its needs and its sensitivities. **Both the development plan and development control process must follow sustainable development principles.**

4.1.4 The planning system should be efficient, effective and simple in operation. It is not the function of the planning system to interfere with or inhibit competition between users of and investors in land or to regulate development for other than land use planning reasons. Applications for development should be allowed **if they are consistent with the principles of sustainable development.**

4.1.5 The planning system normally should not be used to secure objectives achievable under other legislation. The principle of non-duplication should be maintained even though the powers and duties resulting from other legislation may also be the concern of local authorities.

4.1.6 However, provided a consideration is material in planning terms it must be taken into account in dealing with a planning application **even though** other machinery may exist for its regulation. Even where consent is needed under other legislation, the planning system may have an important part to play, for example, in deciding whether the development is appropriate for the particular location. The grant of planning permission does not remove the need to obtain any other consents that may be necessary, nor does it imply that such consents will be forthcoming.

## 4.2 The Development Plan<sup>1</sup>

4.2.1. Development plans are intended to provide a firm basis for rational and consistent decisions on planning applications and appeals. **Section 54A of the 1990 Act<sup>2</sup> requires that where, in making**

**any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan, unless material considerations indicate otherwise.** Conversely, applications which are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify the grant of planning permission. It is important that development plan policies **are kept up to date by means of regular monitoring and review.** Policies and proposals which are likely to provide the basis for determining planning decisions, or for determining conditions to be attached to planning permissions, should be set out in the development plan; policies on non-land use matters should not be included. Plan policies may set out criteria which should be taken into account in the assessment of development proposals. Planning authorities must ensure that they have sufficient information on which to base sound development plan policies and development control decisions.

4.2.2 Where an application is refused the local planning authority must state clearly the reasons for the refusal. The local planning authority should have good reasons if it approves a development which is a departure from the development plan, contrary to the **Assembly's** stated planning policies, or against the advice of a statutory consultee, **and these reasons should be recorded in the Committee's minutes.**

4.2.3 Development plans should give developers and the public certainty about the type of development that will be permitted at a given location. If policies or proposals contained in a draft development plan appear to conflict with the **Assembly's** planning policy guidance and appear not to be justified by local circumstances, the **Assembly** will draw this to the attention of the local planning authority and, if necessary, intervene in the plan process by means of objection or direction to modify or by calling in all or part of a plan. The **Assembly** would expect to use **its** powers of direction sparingly.

### **References:**

**1. 'Unitary Development Plan Wales' 2001 (emerging guidance to issue in final form in early 2001).**

**2. Town and Country Planning Act 1990 – Section 54A.**

## **4.3 Emerging Development Plans and Prematurity**

**4.3.1 Planning applications must be considered in the light of policies in the adopted development plan.** The weight to be attached to **policies in emerging** development plans which are going through the statutory procedures towards adoption, depends upon the stage of **plan** preparation (the weight will increase as successive stages are reached) and upon the degree of any conflict with **adopted** plans. If no objections to relevant policies in a deposited plan have been lodged, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted and replace those in the existing plan. Equally, the converse applies if there have been objections to relevant policies. The nature of objections to, and **representations in support of**, a

**policy** will also be an important consideration.

4.3.2 Questions of prematurity may arise where a development plan is in preparation or under review, and proposals have been issued for consultation (**i.e. placed on deposit**) but the plan has not yet been adopted. In these circumstances, it may be justifiable to refuse planning permission on grounds of prematurity in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would prejudice the outcome of the plan process **by predetermining** decisions about **the** scale, location or phasing of new development which ought properly to be taken in the development plan context. **Refusal** would **therefore** not usually be justified except in cases where a development proposal went to the heart of a plan. This requires careful judgement. **For example**, a proposal for development which impacted on only a small area would rarely come into this category; but refusal might be justifiable where a proposal would have a significant impact on an important settlement, or a substantial area, with an identifiable character. The stage which a plan has reached will also be an important factor. If, for example, a plan is at **the pre-deposit** consultation stage, with no early prospect of reaching deposit, then refusal on prematurity grounds would seldom be justified because of the lengthy delay which this would impose in determining the future use of the land in question. Where there is a phasing policy in the development plan there may be circumstances in which it is necessary to refuse planning permission on grounds of prematurity if the policy is to have effect. Where planning permission is refused on grounds of prematurity, the planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the development **plan** process.

#### **4.4 Collaborative Working<sup>1</sup>**

**4.4.1 Issues of a strategic nature which affect more than one local planning authority will require** consultation and collaboration between all authorities likely to be affected. Community Councils, voluntary bodies **and** the business community **will** have a role to play. Partnership with these and other bodies will inform the planning process and may avoid potential problems and conflicts **in the development plan process**.

**4.4.2 The conclusions of collaborative working, especially where that work has been subject to wide consultation, will be an important input to unitary development plans (UDPs) and local planning authorities may wish to approve a report setting out the conclusions of the collaborative working as a statement of the strategy informing the plans. The conclusions may also be a material consideration for development control purposes.**

**Reference:**

**1. 'Unitary Development Plan Wales' 2001 (emerging guidance to issue in final form in early 2001).**

#### **4.5 Material Considerations**

**4.5.1 Material considerations used in planning decision making<sup>1</sup>** must be genuine planning considerations, that is, they must be **relevant to the regulation of** the development and use of land in

the public interest, **towards the goal of sustainability**. **Health considerations and public concern can, in principle, be material considerations.**

**4.5.2 Material considerations must also be fairly and reasonably related to the development concerned. The Courts are the final arbiters of what may be regarded as material considerations in relation to any particular application, but they include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood. It is for the decision maker to determine what weight to attach to such considerations in any particular case. Policies of the Assembly and the UK Government are also material to planning decisions.**

**Reference:**

**1. Town and Country Planning Act 1990 – Section 54A**

## **4.6 Sustainability Principles**

**4.6.1** A systematic **sustainability** appraisal is the most effective way of ensuring that **the implications of an emerging development plan are considered as an integral part of its preparation**. It ensures that the objectives of a policy are clearly laid out and that the trade-offs between options can be identified and assessed.

**4.6.2 Economic Considerations** - Development plans will **only** be effective **if** they are realistic **and practical** and provide developers and others with scope to make choices to secure the efficient and effective use of those resources. Plans and development control decisions should take account of **European**, national and local economic and development policies. Plans should include an indication, in broad terms, of the assumptions made about the resources likely to be available for effecting the policies and proposals formulated.

**4.6.3 Social Considerations** - Development plans and development control decisions should take account of social considerations which are relevant to land use issues, such as the relationship of planning policies and proposals to social needs and problems, including their likely impact on the whole community, on women and men, **on children and families**, or on groups such as elderly and disabled people, single parent families, ethnic minorities, disadvantaged and deprived people. Social considerations will be **particularly** relevant in assessing the need for affordable housing, in preparing measures for crime prevention, and for sport and recreation provision. Plans should make provision for land for schools and higher education, for places of worship and other community facilities.

**4.6.4 Environmental Considerations** - Most development plan policies and proposals will have environmental implications which should be appraised as part of the plan preparation process. Such an appraisal should be distinguished from the requirement to have a formal Environmental Impact Assessment for specific development projects. Most planning applications do not require Environmental Impact Assessment but many will have environmental aspects which should be considered by local planning authorities.

## 4.7 Environmental Impact Assessment

4.7.1 Environmental Impact Assessment (EIA) is the process by which information about the likely environmental effects of certain types of development is collected, assessed and taken into account, both by the developer, as part of project design, and by the local planning authority in deciding whether planning permission should be granted<sup>1,2,3,4</sup>. **Development that falls within a relevant description in Schedule 1 to the Regulations is known as Schedule 1 development and must always be subject to EIA<sup>5</sup>. Development of a type listed in Schedule 2 to the Regulations which meets one of the relevant criteria or exceeds one of the relevant thresholds listed in the second column of the table in Schedule 2 or is located in a sensitive area, as defined in the Regulations, is known as Schedule 2 development. Developers may decide for themselves that EIA will be required for their proposed Schedule 2 development (including that which would otherwise benefit from permitted development rights)<sup>6</sup>. Otherwise, local planning authorities must determine and formally record whether or not EIA is required (known in the Regulations as a "screening opinion"). In making this determination, local planning authorities must take into account the relevant "selection criteria" in Schedule 3 to the Regulations. Developers who are dissatisfied with a "screening opinion" that EIA is required, or where the authority fails to adopt an opinion within three weeks, may appeal to the Assembly for a "screening direction".**

4.7.2 Where EIA is required, the developer must prepare and submit an Environmental Statement (ES) to accompany the planning application, setting out the information specified in Schedule 4 to the Regulations<sup>7</sup>. While the responsibility for compiling the ES rests with the developer, there should be consultation with those with relevant information. Public authorities that have such information in their possession are required to make it available to the developer. **Developers may obtain a formal opinion from the planning authority on what should be included in the ES (known as a "scoping opinion")<sup>8</sup>. Developers may appeal to the Assembly for a "scoping direction" where an authority fails to make a "scoping opinion" within five weeks. The ES (and the application to which it relates) must be publicised. Public authorities with relevant environmental responsibilities, and the public, must be given an opportunity to give their views on the project and the ES. The period within which the local planning authority should determine an application to which EIA applies is 16 weeks from the date of receipt of the ES. The local planning authority must inform the public of their decision whether to grant or refuse permission and the main reasons and considerations on which the decision is based.**

4.7.3 Local planning authorities should advise developers, where relevant, to consider the potential benefits of managing the EIA process in parallel with the Authorisations process managed by the Environment Agency.

### References:

1. Council Directive 85/337/EEC (as amended by Council directive 97/11/EC).
2. Welsh Office Circular 11/99 'Environmental Impact Assessment', 1999.
3. 'Environmental Impact Assessment: A Guide to Procedures', Thomas Telford Publishing,

**2000.**

**4. 'Evaluation of Environmental Information for Planning Projects' HMSO, 1994.**

**5. 'Town and Country Planning (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2000 (SI 2000/2867)'**

**6. 'Environmental Impact Assessment' – Guidance on Screening (May 1996) European Commission.**

**7. 'Preparation of Environmental Statements for Planning Projects that require Environmental Assessment', HMSO, 1995**

**8. 'Environmental Impact Assessment' – Guidance on Scoping (May 1996) European Commission.**

## **4.8 The Welsh Language**

**4.8.1 The Welsh language is part of the social and cultural fabric of Wales. All<sup>1</sup> local planning authorities should consider whether they have communities where the use of the Welsh language is part of the social fabric and where this is so it is appropriate that this be taken into account in the formulation of land use policies. All local planning authorities should include in the reasoned justifications to their unitary development plans (UDPs) a statement on how they have taken the needs and interests of the Welsh language into account in plan preparation, and how any policies relating to the Welsh language interact with other plan policies. UDP policies should not seek to introduce any element of discrimination between individuals on the basis of their linguistic ability. Planning policies should not seek to control housing occupancy on linguistic grounds.**

**4.8.2 Decisions on individual cases where the needs and interests of the Welsh language may be a material consideration must, as with all other planning applications, be based on planning grounds only and be reasonable.**

### **Reference:**

**1. Technical Advice Note (Wales) 20 'The Welsh Language - Unitary Development Plans and Planning Control', 2000.**

## **5. OPERATING PRINCIPLES**

### **5.1 Call-in**

**5.1.1 The Assembly does not interfere with local planning authorities' jurisdiction unless it is necessary to do so. The Assembly's powers to call in planning applications are used selectively. Each case is looked at individually. Call in is generally only considered where an**

application raises planning issues of more than local importance which could include issues that:

- are in conflict with national planning policies;
- could have wide effects beyond their immediate locality;
- may give rise to substantial controversy beyond the immediate locality;
- are likely to significantly affect sites of scientific, nature conservation or historic interest;
- raise issues of national security; or
- raise novel planning issues.

## 5.2 Recovery of Planning Appeals

5.2.1 Most planning appeals are determined by Planning Inspectors under powers statutorily transferred to them. The Assembly has powers to recover planning appeals from the Inspectorate and determine them itself. Those powers are used in cases involving:

- residential development of more than 150 houses or on more than 6 hectares of land;
- retail developments of over 9,000 square metres;
- major proposals for the winning and working of minerals;
- proposals for major developments which could have wide effects beyond their immediate locality;
- proposals giving rise to substantial controversy beyond the immediate locality;
- proposals which raise novel planning issues;
- proposals which raise significant legal difficulties;
- proposals to which a Central Government Department has objected; or
- cases that can only be decided in conjunction with a case over which an Inspector has no jurisdiction.

## 5.3 Completion Notices

5.3.1 Where a material start has been made but development is not proceeding, local planning authorities have the power to serve a Completion Notice. The **Assembly** expects local planning authorities to be aware of this power should they consider it necessary to resolve uncertainty created by a **permission that has been begun but not completed**.

## 5.4 Renewal of Planning Permission

5.4.1 Applications for renewal of planning permission should be determined in accord with the up to date development plan, **in the light of current circumstances** and with due regard to **the Assembly's planning policy**. For retail and leisure developments this means that applications should be considered using the sequential test (**see para. 15.3.9**).

## 5.5 Planning Conditions

5.5.1 Conditions on a planning permission can enable many development proposals to proceed where it would otherwise be necessary to refuse planning permission. The proper use of conditions can improve the quality of development control and enhance public confidence in the planning system<sup>1</sup>.

5.5.2 Conditions should only be imposed where they are:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; **and**
- reasonable in all other respects.

5.5.3 Where appropriate, development plans should specify the policies for certain types of development which the authority propose to implement regularly **using** planning conditions.

5.5.4 Planning permission cannot be granted subject to conditions which specifically require works on land outside the application site and outside the control of the applicant. However it is possible for local planning authorities to grant permission subject to a condition that development should not be commenced or occupied until some obstacle to the development has been **overcome**.

## 5.6 Planning Obligations

5.6.1 When granting planning permission local planning authorities may seek to enter into a planning obligation with a developer to:

- restrict development or use of the land;
- require operations or activities to be carried out in, on, under or over the land;
- require the land to be used in a specified way; or
- require payments to be made to the authority either in a single sum or periodically.

**5.6.2 Amongst other factors, planning obligations should be sought only where they are:**

- **necessary;**
- **relevant to planning;**
- **directly related to the proposed development;**
- **fairly and reasonably related in scale and kind to the proposed development; and**
- **reasonable in all other respects.**

5.6.3 A planning obligation may be entered into **via** a unilateral undertaking by a developer or by agreement between a developer and a planning authority. Planning obligations run with the land, so they may be enforced against both the original covenantor and anyone subsequently acquiring an interest in the land.

5.6.4 A planning obligation may be modified or discharged by agreement between the authority and



the person(s) against whom the obligation is enforceable or by application to the authority (**after** five years from the date of entering into the obligation). An applicant has a right of appeal to the **Assembly** against a determination, or the authority's failure to give notice of that determination.

5.6.5 Planning obligations should only be sought where they are necessary to make a proposal acceptable in land use planning terms. Planning permission may not be bought or sold and negotiations should be conducted in a way that is seen to be fair, open and reasonable. Unacceptable development should never be allowed because of unrelated benefits. Acceptable development should never be refused simply because an applicant is unwilling to offer such benefits. If there is a choice between imposing conditions and entering into a planning obligation, the imposition of a condition is preferable because it enables a developer to appeal to the **Assembly**<sup>2</sup>.

## 5.7 Permitted Development Rights

5.7.1 Certain works and uses do not constitute 'development' under the terms of the 1990 Act. These include:

- works of maintenance, improvement or alteration which affect only the interior of a building or which do not materially affect its external appearance;
- the use of any buildings or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such;
- the use of land for the purpose of agriculture or forestry; and
- change of use of buildings or other land from one use to another within certain classes of the Town and Country Planning (Use Classes) Order 1987.

5.7.2 The Town and Country Planning (General Permitted Development) Order 1995 (GPDO) gives a general permission for certain defined classes of development or use of land, mainly of a minor character. The most commonly used class permits a wide range of small extensions or alterations to dwelling houses. Development requiring Environmental Impact Assessment does not benefit from permitted development rights. Schemes for Simplified Planning Zones also confer planning permission for developments of types defined in the scheme. Under the 28 **and 42** day determination procedure local planning authorities may require their prior approval to be obtained before certain permitted development rights can be exercised. In National Parks and **other areas specified in Article 1(6) of the GPDO and within the areas of land specified in Article 1(5) of the GPDO** - Areas of Outstanding Natural Beauty (AONBs), Sites of Special Scientific Interest (SSSIs) and conservation areas - the GPDO provides for the reduction of some permitted development rights while others are withdrawn.

5.7.3 In operating the determination procedures under the GPDO, local authorities should always have full regard to the operational needs of the agricultural and forestry, **and telecommunications** industries; the need to avoid imposing any unnecessary or excessively costly requirements, and the normal considerations of reasonableness. They will also need to consider the effect of the development on **public amenity**, the conservation of landscape, wildlife, historic sites and listed buildings and their settings. **Irrespective of whether they have to follow the determination procedures, developers intending to exercise their permitted development rights should also take these considerations into account.**

5.7.4 In exceptional circumstances, the general permission which the GPDO grants for a particular development or class of development may be withdrawn in a particular area by a direction made by the local authority or by the **Assembly** under Article 4 of that Order. **For certain types of development relating to mineral exploration or removal of material from mineral working deposits, a direction should be made under Article 7 of that Order.** Such action will rarely be justified unless there is a real and specific threat, i.e. there is reliable evidence to suggest that permitted development is likely to take place which could damage an interest of acknowledged importance and which should, therefore, be brought within full planning control in the public interest. Similarly, save in exceptional circumstances, planning conditions should not be imposed which restrict or withdraw permitted development rights.

## 5.8 Personal Circumstances

5.8.1 Unless otherwise specified, a planning permission runs with the land and it is seldom desirable to provide for any other arrangement. Exceptionally, even though such considerations will rarely outweigh the more general planning considerations, the personal circumstances of occupiers, personal hardship or the difficulties of businesses which are of value to the local community, may be material to the consideration of a planning permission. In such circumstances, a permission may be granted subject to a condition that it is personal to the applicant<sup>1</sup>. **Authorities should bear in mind that personal permissions will hardly ever be justified for works or uses that will remain long after the personal circumstances of the applicant have changed.**

## References:

1. Welsh Office Circular 35/95 'The Use of Conditions in Planning Permission'
2. Welsh Office Circular 13/97, 'Planning Obligations'

## 5.9 Phasing

5.9.1 **In the light of local circumstances** it is for individual authorities to consider the need for phasing **of development over the period of the development plan.** Phasing may be justified by considerations relating to **physical or social** infrastructure or the adequacy of other services, which may indicate that a particular area cannot be released for development until a particular stage in the plan period. Evidence that market demand would exhaust total planned provision in the early years of the plan may also indicate a need for some overall phasing of development, though this generally will be justifiable only in areas which are under severe development pressure. Where phasing is included it should normally take the form of a broad indication of the time-scale envisaged for the release of the

main areas or identified sites, rather than an arbitrary numerical limit on permissions **or precise order of release of sites** in particular periods.

5.9.2 Proposals for phasing should allow for a reasonable degree of choice and flexibility, for example to secure an efficient and effective housing market. Flexibility will be needed in respect of the emergence of unidentified sites. Phasing policies should recognise the need for possible adjustment to the timing of land release to the extent that the emergence of unidentified sites exceeds or falls short of the assumptions in the plan. Where assumptions are made in the plan about the future availability of windfall sites they will need to be checked by regular monitoring of planning permissions granted.

## **5.10 Enforcing Planning Control**

5.10.1 **An effective development control process requires local planning authorities to be prepared to take enforcement action in appropriate circumstances. The decisive issue for the authority is whether the breach of control would unacceptably affect public amenity, including the existing use of land and buildings meriting protection in the public interest.**

5.10.2 **Enforcement action taken by an authority to prevent or remedy breaches of planning control needs to be effective and timely. This means that local planning authorities should look at all means available to them to achieve the desired result. In all cases there should be dialogue with the owner or occupier of land and in some cases mediation may also be an agreed way forward. In many cases this dialogue could result in an accommodation which means that enforcement action is unnecessary. Such early dialogue or mediation would avoid enforcement action coming as a surprise to the owner or occupier.**

5.10.3 **The statutory time limits for taking enforcement action must be adhered to and prompt initiation of action may be necessary to prevent an unacceptable breach of planning control from becoming well established and more difficult to remedy. Any enforcement action ultimately deemed necessary should be commensurate with the breach of planning control to which it relates. The intention should be to remedy the effects of the breach of planning control, not to punish the person(s) responsible for the breach.**

## **5.11 Revocation, Modification and Discontinuance<sup>1,2</sup>**

5.11.1 **If it considers that it is expedient to do so, a local planning authority has the power to make an order revoking or modifying a planning permission; or requiring that any use of land be discontinued or continued subject to conditions; or that any buildings or works shall be altered or removed. Revocation and modification orders are required to be confirmed by the Assembly unless they are unopposed, but discontinuance orders must always be confirmed by the Assembly. Compensation is payable by the local planning authority as the result of an order taking effect.**

5.11.2 **The Assembly has default powers to make its own revocation / modification or discontinuance orders respectively, but only after consultation with the local planning authority. Such intervention would overturn a local authority's judgement of a matter which is, in the first place, its responsibility and could only be justified in exceptional circumstances.**

The general principle and policy followed by successive UK Governments and continued by the Assembly, is that such action would be considered only where the original decision is judged to be grossly wrong, so that damage would be done to the wider public interest.

#### References:

1. Town & Country Planning Act 1990, Sections 97, 98, 99, 102 and 103
2. Town & Country Planning Act 1990, Sections 100 and 104

### 5.12 Service Standards

5.12.1 The **Assembly is committed to modernising our public services<sup>1,2</sup>**. The standard of public services **must be raised to** make them more responsive to the wishes and needs of their users. **Each planning authority should produce a document setting out the procedures, processes and code of practice in relation to the planning system, to improve the transparency of the process. They should:**

- set performance standards, publicise them and monitor **and review** performance, **using the results to improve the service provided;**
- **communicate effectively**, giving clear, **full** information about how people can comment on planning **matters;**
- ensure that all interested parties are fully consulted, **particularly** about **development plans and** planning applications;
- **make services easily available to all who need them, using technology to the full;**
- **use resources effectively, working with others to provide co-ordinated services, treating everyone fairly; and**
- **have an effective, easy to use complaints system which allows matters to be put right quickly and effectively.**

### 5.13 Participation and access to information

5.13.1 Participation is an essential part of the planning process, and authorities should be as open as possible in making planning information publicly available. While authorities have legal obligations to make certain information available, they should consider ways in which they can provide additional access to information at reasonable cost to ensure better involvement by all members of the community, recognising that people with disabilities, mobility problems or other special needs have the right to be involved.

5.13.2 Planning authorities must take appropriate steps to satisfy themselves, and be able to demonstrate that their policies, operational practices and office culture do not lead to any systematic unfairness in the treatment of any group in the population. The outputs of the planning system, particularly those where discretion is central, should be monitored and the results made widely available<sup>3</sup>.

## **5.14 Propriety**

5.14.1 When determining planning applications **local planning authorities** must take into account any relevant view on planning matters expressed by neighbouring occupiers, local residents and any other third parties. While the substance of local views must be considered, the duty is to decide each case on its planning merits. As a general principle, local opposition or support for a proposal is not, on its own, a reasonable ground for refusing or granting a planning permission; objections, or support, must be based on valid planning considerations. There may be cases where the development proposed may give rise to public concern. The Courts have held that perceived fears of the public are a material planning consideration that should be taken into account in determining whether a proposed development would affect the amenity of an area and could amount to a good reason for a refusal of planning permission. It is for the local planning authority to decide whether, upon the facts of the particular case, the perceived fears are of such limited weight that a refusal of planning permission on those grounds would be unreasonable. Members should make planning decisions on the basis of officers' written reports and advice and should have good reasons, based on land use planning grounds, if they choose not to follow such advice. Such reasons should be recorded **in the Committee's minutes**.

5.14.2 The National Code of Local Government Conduct sets out recommended standards of conduct for elected Members in the performance of their duties. A breach of the Code may constitute maladministration. Elected members must declare any pecuniary or personal interest in any application before them and in most cases should not speak or vote on any proposal where they have such an interest<sup>4</sup>.

## **5.15 Private Interests**

5.15.1 The planning system does not exist to protect the private interests of one person against the activities of another. Proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. The Courts have ruled that the individual interest is an aspect of the public interest, and it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties. However, such consideration should be based on general principles, reflecting the wider public interest (for example a standard of "good neighbourliness"), rather than the concerns of the individual.

## **5.16 Performance Targets – Planning Applications**

5.16.1 There is a statutory duty for local planning authorities to determine planning applications within 8 weeks of the receipt of a valid planning application (or 16 weeks where applications require an Environmental Statement). This period can be extended with the agreement of the applicant.

5.16.2 Minor applications should be determined within this 8-week period. However, it is accepted that some large or complex proposals may take longer. Planning authorities should seek to agree a timetable for handling such applications with the developer. Well-managed pre-application discussions can help reduce the time taken to deal with a formal application. It is important that development proposals are handled efficiently and the Assembly expects each

local planning authority to determine 80% of its planning applications within 8 weeks of receipt of a valid application. Improved efficiency of decision making should not compromise the quality of either the decision making process or the development.

## 5.17 Best Value

5.17.1 As part of the overall process of modernising local government in Wales, all local authorities now have a statutory duty to strive for Best Value or the continuous improvement of services by producing an annual performance plan, reviewing services and producing action plans to improve reviewed services. The aim is for authorities to provide the highest quality services which are efficient and cost effective, monitoring this using performance indicators<sup>5</sup>. Pre-application discussions with applicants are an important part of the planning process and can improve the quality of applications.

### References:

[for paras 5.12 to 5.17]

1. 'Service First the New Charter Programme' Cabinet Office, 1998
2. 'Development Control in National Parks: A Guide to Good Practice', the Countryside Commission and the Association of National Park Authorities, 1996.
3. 'Government of Wales Act 1998, Section 120'
4. 'The National Code of Local Government Conduct, April 1996
5. 'Welsh Office White Paper 'Local Voices: Modernising Local Government in Wales', July 1998.

## 6. GENERIC POLICIES

### 6.1 Design<sup>1</sup>

6.1.1 Good design can **enhance** the quality of the existing environment, **help to** attract business and investment and **improve the quality of life**. It can also **raise public aspirations**, reinforce civic pride and a sense of place, helping to secure continued public acceptance of new development. **The process of** good design **should** promote sustainable development **through site selection, treatment and the efficient use of natural and secondary resources**. Mixed use development can provide particular design opportunities, adding interest and vitality to more sustainable living and working environments.

6.1.2 Good design should be the aim of all those involved in the development process and should be

encouraged everywhere. This applies to all **development** proposals, **at all scales, from the construction or alteration of individual buildings to larger development proposals, and includes their settings and road layouts.**

6.1.3 The appearance of proposed development, its scale and its relationship to its surroundings are material planning considerations and local planning authorities should **reject poor designs. Unitary development plans (UDPs)** should provide clear **policies, supported where appropriate by supplementary planning guidance, which set out** planning authorities design expectations. **Planning and development briefs should be used where appropriate. The preparation of UDPs, supplementary planning guidance and briefs should be subject to appropriate consultation.**

6.1.4 Local planning authorities **in their policies and guidance should encourage high quality design but** should not attempt to impose a particular architectural taste or style arbitrarily. **They should also avoid inhibiting opportunities for innovative design solutions which may be acceptable. In** areas recognised for their landscape, townscape **or historic** value, such as National Parks, Areas of Outstanding Natural Beauty and conservation areas; **and more widely in areas with an established and distinctive design character, it can be appropriate to seek to promote or reinforce traditional and local distinctiveness. In those areas the impact of development on the existing character, the scale and siting of new development,** and the use of appropriate building materials, will be particularly important. The impact on existing buildings should be given particular attention in relation to listed buildings.

6.1.5 Local planning authorities should also encourage early consultation with potential developers and other interested parties on design matters which should help to achieve acceptable standards of development. Applicants for planning permission should, as a minimum, provide a short written statement setting out the design principles adopted, as well as illustrative material in plan and elevation<sup>2</sup>.

#### References:

1. 'By Design: Urban Design in the Planning System: Towards Better Practice', DETR 2000
2. Technical Advice Note (Wales) 12, 'Design', 1997

## 6.2 Crime Prevention<sup>1,2</sup>

6.2.1 Local authorities are under **a legal** obligation to consider the need to prevent crime in all decisions that they take<sup>3</sup>. **Each unitary authority is required to establish partnership arrangements to prepare a community safety strategy document<sup>4</sup>.**

6.2.2 Crime prevention can **therefore** be a material consideration when considering planning applications **and should be reflected in a planning authority's design policies and guidance. The aim should be to produce safe environments of good design.**

#### References:

1. Welsh Office Circular 16/94, 'Planning Out Crime'
2. Association of Chief Police Officers 'The Secured by Design Award Scheme', 1999
3. Section 17, Crime and Disorder Act 1998
4. Sections 5 and 6, Crime and Disorder Act 1998

### 6.3 Access for All<sup>1,2,3,4,5,6</sup>

6.3.1 The development of land and buildings provides the opportunity to secure a more accessible environment for everyone. Developers and local authorities should consider the issue of **accessibility for all**, including the needs of those with limited mobility such as wheelchair users, elderly people and people with young children, at an early stage in the design process. **In drawing up policies and any supplementary planning guidance, local planning authorities should consult Disability Access Groups.** When a new building is proposed, an existing building is being extended or altered, **or a change of use is proposed**, developers should consider the need to **make it accessible** for all those who might use the building. The appropriate design **and layout of spaces in**, between and around buildings, including parking provision **and movement routes** is particularly important in ensuring good **accessibility**.

6.3.2 Developments must conform to the provisions of the Disability Discrimination Act<sup>7</sup>. Local planning authorities have a duty when granting planning permission to draw applicants' attention to their statutory obligations. It is open to planning authorities to require broader access than required by the Act if this can be justified.

6.3.3 Where it is not clear from a planning application that provision for **everyone** is being achieved, it will be preferable to resolve the issue through negotiation. If there is a clear planning need it may be appropriate to impose a condition<sup>8</sup> to ensure adequate **accessibility for all**.

6.3.4 Historic buildings can present particular accessibility difficulties. The provision of access suitable for all should be encouraged wherever the installation of such access would not unduly affect the special character of an historic building. When a new extension is designed for a building of special architectural or historic interest it should be fully accessible. Access audits have a beneficial role in assessing the accessibility of historic buildings.

### References:

1. Planning (Listed Buildings and Conservation Areas) Act, 1990
2. Chronically Sick and Disabled Persons Act 1970
3. Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'.



4. Building Regulations 1991, Approved Document M, Access and Facilities for Disabled People, 1999 Edition
5. 'British Standards Institutions Code of Practice for Access for the Disabled to Buildings', BS 5810, 1979 (updated by Draft BS 8300, available from BSI)
6. Statutory Instrument 2000 No. 2531: Building and Buildings England and Wales: The Building Regulations 2000
7. Disability Discrimination Act 1995
8. Welsh Office Circular 35/95 'The Use of Conditions in Planning Permissions'

## 6.4 Noise

6.4.1 Noise can affect **people's** health **and well-being** and have a direct impact on local amenity. It can therefore be a material planning consideration, for example in proposals to use or develop land near an existing source of noise or where a proposed new development is likely to generate noise. Local planning authorities should make a careful assessment of likely noise levels before determining such planning applications<sup>1</sup>.

6.4.2 Development plan policies should be designed to ensure, as far as is practicable, that noise sensitive developments, such as hospitals, schools and housing, are located away from existing sources of significant noise like road, rail, air transport and some industrial activities or programmed development such as improved or new roads. Policies should also be designed to ensure, as far as possible, that potentially noisy developments are located in areas where noise will not be such an important consideration or where its impact can be minimised. Local planning authorities may adopt policies to prevent potentially noisy developments in areas which have remained relatively undisturbed by noise.

6.4.3 Special consideration is required where noise-generating development is proposed in or near statutorily designated areas. The effect of noise on the enjoyment of other areas of landscape, wildlife and historic value should also be taken into account.

## References:

1. Technical Advice Note (Wales) 11: 'Noise', 1997

## 6.5 Lighting

6.5.1 There is a need to balance the provision of lighting to enhance safety, help in the prevention of crime and to allow activities like sport and recreation to take place, with the need to protect the natural **and historic** environment, to prevent glare and respect the amenity of neighbouring land uses<sup>1,2</sup>.

**6.5.2 Local authorities can attach conditions to planning permissions for new developments that include the design and operation of lighting systems and prevent light pollution.**

#### **References:**

- 1. 'Lighting in the Countryside: Towards Good Practice', DoE and Countryside Commission, 1997.**
- 2. Draft revised Technical Advice Note (Wales) 12: 'Design'.**

## **7. CONSERVATION OF THE NATURAL HERITAGE**

### **7.1 Natural Heritage**

**7.1.1 Wales' natural heritage includes its plants and animals, its landforms and geology and its natural beauty and amenity. It embraces the interrelationship of landform, habitat, wildlife and landscape and their capacity to sustain economic activity and to provide enjoyment and inspiration.**

**7.1.2 Attractive and ecologically rich environments are important to social and economic well being. A key 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. However, conservation and development can often be fully integrated and, with careful planning and design, the potential for conflict can be minimised. New development on previously developed land provides opportunities to restore and enhance the natural heritage through land rehabilitation, landscaping and the creation of new or improved habitats.**

**7.1.3 Landscape and nature conservation issues are not confined by administrative boundaries, and **must** be addressed strategically through consultation and collaboration with adjoining planning authorities.**

**7.1.4 CCW has a statutory role in development control and will provide specific advice on landscape and nature conservation issues for development plan preparation. **The voluntary sector has developed a wide range of expertise and makes a vital contribution to nature conservation. Bodies such as the Wales Wildlife Trust and the Royal Society for the Protection of Birds can be a valuable source of information and advice on nature conservation. Habitat and Species Action Plans can provide useful information on ecological resources.****

### **7.2 Biodiversity<sup>1,2,3</sup>**

**7.2.1 The United Kingdom has signed the Biodiversity Convention<sup>4</sup>, which requires that the components of the Earth's biological diversity should be used in ways which do not lead to their decline. The commitments contained in the Convention are reflected in the Assembly's priorities and programmes and in the Assembly's Sustainable Development Scheme. In addition the Wales Biodiversity Group is taking these commitments forward in partnership with**

**local authorities, ASPBs, non-governmental organisations and local communities.**

**7.2.2 Maintaining biodiversity is an essential element of sustainable development and the planning system has an important part to play in promoting alternatives approaches to development which can avoid or mitigate damage, create new opportunities for biodiversity or compensate for losses.**

**7.2.3 The Countryside and Rights of Way Act 2000<sup>5</sup> places a duty on the Assembly to have regard, so far as is consistent with the proper exercise of its functions, to the purpose of conserving biodiversity in accordance with the Convention. Under the Act the Assembly also has a duty to promote the conservation, enhancement and restoration of those species and habitat types identified as priorities for biological conservation. The Assembly will ensure that its policies contribute to the conservation of the abundance and diversity of native wildlife and its habitats and will minimise the adverse effects on wildlife where conflict of interest is unavoidable. The UK Biodiversity Action Plan (UKBAP) includes objectives to conserve, safeguard and, where possible, enhance:**

- **the quality and range of wildlife habitats and ecosystems;**
- **the overall populations and natural ranges of native species;**
- **internationally important and threatened species, habitats and ecosystems;**
- **species, habitats and natural and managed ecosystems characteristic of local areas;**
- **biodiversity of natural and semi-natural habitats where they have been diminished over recent past decades.**

**The Assembly is committed to promoting Habitat and Species Action Plans prepared under the UKBAP in fulfilment of its obligations under the Countryside and Rights of Way Act.**

**7.2.4 The UKBAP objectives can best be realised through close co-operation and partnership between public agencies, local communities and the private and voluntary sectors. They should be taken into account in all land use planning activities, and reflected in both development plans and development control decisions.**

**7.2.5 The Assembly is committed to active community involvement in the planning process and supports the preparation of Local Biodiversity Action Plans (LBAPs) as a means of engaging communities and private sector organisations in the conservation and enhancement of biodiversity at the local level to achieve these national goals<sup>6,7</sup>. By identifying local needs and aspirations in terms of biodiversity, these plans can provide a valuable input into statutory development plans. The Wales Biodiversity Group has issued practical guidance on the preparation of LBAPs<sup>8</sup>. In order to ensure that biodiversity considerations are properly incorporated into the planning system, local planning authorities should address biodiversity issues, insofar as they relate to planning, in their development plans. Principles and targets taken from locally prepared Agenda 21, Habitat Action Plans and Species Action Plans and countryside strategies, can also inform development plan policies.**

**7.3 Countryside** (to be read in conjunction with Section 15.4 'Economic Development in Rural Areas')

### 7.3.1 The Assembly's objectives for the Welsh countryside are for:

- a working countryside, with a strong and diverse economy;
- a living countryside, with sustainable rural communities and access to high quality public services;
- an attractive and ecologically rich countryside in which the environment is conserved and enhanced, and which is accessible.

For these objectives to be realised it will be essential that social, economic and environmental policies are fully integrated<sup>9</sup>.

## 7.4 Agricultural Land

7.4.1 Land of grades 1, 2 and 3a of the Ministry of Agriculture Fisheries and Food (MAFF) Agricultural Land Classification (ALC) is the best and most versatile agricultural land, and should be **conserved** as a **finite** resource for the future<sup>10,11</sup>. In development plan policies and development control decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed exceptionally, if there is an overriding need for the development, and sufficient previously used land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value which is recognised by a statutory landscape, wildlife, historic or archaeological designation and this outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

## 7.5 Natural Heritage - Landscape and Nature Conservation

7.5.1 The countryside **must** be **conserved and, where possible, enhanced** for the sake of its landscape, natural resources and its agricultural, ecological, geological, physiographic, historical, archaeological and recreational value.

7.5.2 Many of the most important areas of nature conservation and landscape quality have been statutorily designated. These statutorily designated sites have a vital role in protecting biodiversity and landscape but these sites can also be important in providing opportunities for sustainable economic and social development. Designation does not prohibit development but proposals for development must be carefully assessed for their effect on those natural heritage interests which the designation is intended to protect.

### *[MAPS OF DESIGNATED CONSERVATION SITES]*

7.5.3 Wales' natural heritage is not confined to statutorily designated sites but is found

elsewhere in the countryside, on the coast and in urban areas. **Biodiversity and landscape are important in the economic life of many communities and the quality of the environment is often an important consideration in the location of businesses.** The environmental quality of land outside statutorily designated areas should be maintained or, where possible, enhanced while allowing for appropriate development to be accommodated. **The effect of a development proposal on the wildlife or landscape of any area can be a material consideration whether or not a statutorily designated site is likely to be affected.**

**7.5.4 Designating an Environmentally Sensitive Area** does not directly affect the status of the area in planning terms. However, the features which contributed to the designation of such areas may be important in planning policies or development control decisions.

## **7.6 Statutory Landscape Designations<sup>12,13,14,15</sup>**

**7.6.1 National Parks and Areas of Outstanding Natural Beauty (AONBs) are of equal status in terms of landscape and scenic beauty and both must be afforded the highest status of protection from inappropriate developments. This equivalent status means that National Parks and AONBs must be treated the same in development plan policies and development control decisions.**

7.6.2 The statutory purposes of National Parks are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for public understanding and enjoyment of their special qualities<sup>16</sup>. Where it appears that there is a conflict between those purposes, greater weight shall be given to the first. National Park Authorities, other public bodies and other relevant authorities have a statutory duty to have regard to National Park purposes. National Park Authorities also have a statutory duty, in pursuing their primary purposes, to seek to foster the economic and social well being of their local communities<sup>17</sup>.

7.6.3 The primary objective of designation of AONBs is the conservation and enhancement of their natural beauty<sup>18</sup>. Planning policies and development control decisions affecting AONBs should favour conservation of natural beauty, although it will also be appropriate to have regard to the economic and social well-being of the areas. **Local authorities, other public bodies and other relevant authorities have a statutory duty to have regard to AONB purposes.**

7.6.4 In National Parks and AONBs, planning policies and development control decisions should give great weight to conserving and enhancing the natural beauty, wildlife and cultural heritage of these important areas. **Special considerations apply to major development proposals which are more national than local in character.** Major developments should not take place in National Parks or AONBs **except** in exceptional circumstances. Applications for all such developments must **be demonstrated to be in the public interest and** subject to the most rigorous examination. Any construction and restoration **must** be carried out to high environmental standards. Consideration of applications for major developments should therefore include an assessment of:

- the need for the development, in terms of national considerations, and the impact of permitting it or refusing it upon the local economy;

- the cost of and scope for developing elsewhere outside the area or meeting the need for it in some other way;
- any detrimental effect on the environment and the landscape, and the extent to which that could be moderated.

7.6.5 In National Parks, **AONBs and other sensitive areas** environmental impact assessment may be required for a greater proportion of Schedule 2 proposals than in the wider countryside<sup>19</sup>.

## 7.7 Statutory Nature Conservation Designations<sup>20,21,22,23,24</sup>

7.7.1 Local planning authorities should have regard to the relative significance of international, national and local designations in considering the weight to be attached to nature conservation interests and should take care to avoid unnecessary constraints on development.

7.7.2 The Assembly will ensure that international **responsibilities and obligations for conservation** are fully met, and that, as far as possible and consistent with the objectives of the designation, statutorily designated sites are protected from damage and **deterioration**, with their important features conserved by appropriate management.

7.7.3 The **Assembly**, on the advice of the Countryside Council for Wales (CCW), will normally call in, for its own determination, planning applications which are likely **to have a significant effect on sites of more than local importance, e.g. Sites of Special Scientific Interest (SSSIs), Special Protection Areas (SPAs), candidate or designated Special Areas of Conservation (SACs) and sites listed under the Ramsar Convention**<sup>25</sup>.

7.7.4 **For the purposes of land use planning**, potential SPAs and candidate SACs (included in the list sent to the European Commission) should be treated in the same way as classified SPAs and designated SACs. Sites which the **UK** and the European Commission have agreed as Sites of Community Importance which are to be designated as SACs attract the same legal protection as if they had already been designated. **The same considerations should, as a matter of policy, be applied** to listed Ramsar sites.

7.7.5 Nature conservation can be a significant material consideration in determining many planning applications, especially in or near SSSIs. **SSSIs are of national importance and** can be seriously damaged by developments within or adjacent to their boundaries, and in some cases, by development some distance away. **The Countryside and Rights of Way Act 2000<sup>5</sup> places a duty on all public bodies, including local planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest**<sup>26</sup>. Before authorising operations likely to damage any of the notified features on a SSSI, local planning authorities must give notice of the proposed operations to CCW, and must take the Council's advice into account in deciding whether to grant planning permission<sup>27</sup>.

7.7.6 Consideration should be given to the need for Environmental Impact Assessment (EIA) where a development listed in Schedule 2 to the Town and Country Planning (Environmental Impact

Assessment) (England and Wales) Regulations 1999 is likely to have a significant effect on the special character of an SSSI (see para 4.9 Environmental Impact Assessment). In practice, the effect of a Schedule 2 development on an SSSI will often be such as to require EIA. Whilst each case should be judged on its merits EIA would normally be required where a Ramsar site or listed Ramsar site, a potential or classified SPA or a candidate or designated SAC could be affected. **In such instances, an appropriate assessment of the development's implications for the site under the Habitats Regulations may also be required.** Local planning authorities should consult CCW if uncertain about the significance of a project's likely effect on the environment.

## 7.8 Non-Statutory Designations

**7.8.1 Local non-statutory designations can add value to the planning process particularly if they are informed by community participation and reflect community values.** However, local planning authorities should only apply **these** designations to areas of substantive conservation value where there is good reason to believe that normal planning policies cannot provide the necessary protection. **Non-statutory** designations carry less weight than **statutory** designations and development plans should not apply the same policies to them. Such designations **must** not unduly restrict acceptable development and economic activity.

**7.8.2 Non-statutory designations should be soundly based on a formal assessment of the sites' nature conservation or geological value.** Where an assessment has identified that certain features need to be conserved or enhanced, local planning authorities should state in their development plans what features require this extra protection and why. Policies for non-statutory sites should make it clear that such designations do not preclude appropriate socio-economic activities. Indeed designated areas will often need such activities to ensure their sustainability.

**7.8.3 A consistent, Wales-wide approach to landscape assessment is important.** CCW's *Landmap* methodology<sup>28</sup> can help inform local landscape designation. Local planning authorities should publish their Landmap assessment as Supplementary Planning Guidance.

## 7.9 Protection of Species

**7.9.1 The protection of sites must be complemented by the protection of certain important species wherever they occur.** The presence of a protected species is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in harm to the species or its habitat<sup>29,30,31</sup>. Local planning authorities should consult CCW before granting permission and should also advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site concerned. **Authorities should also consider attaching appropriate planning conditions or entering into planning obligations to secure the protection of the species.**

**7.9.2 Developments contravening the protection afforded to European protected species must be "in the interests of public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of**

primary importance for the environment"<sup>22</sup>. Planning authorities should take these requirements into account when considering development proposals where the presence of a European protected species is a material consideration. This will involve weighing the impact of the development on the species' population, including its range and rarity, against its potential benefits.

**7.9.3** If CCW consider that there is a reasonable likelihood that the a proposed development site is used by a European protected species, but insufficient information has been submitted to make an informed decision, the local planning authority should consider requiring an ecological survey before granting permission. Where the presence of a European protected species is a material consideration for a development which is a departure from the development plan, the local planning authority should require evidence that alternative sites have been considered by the developer, but found not to be suitable, before granting permission.

## **7.10 Development Plans and the Conservation of the Environment**

**7.10.1** Unitary development plans (UDPs) must set out the locational policy framework for the conservation and enhancement of the natural heritage within the context of an integrated strategy for social, economic and environmental development in line with sustainable development principles. Plans should seek to conserve and enhance the natural heritage in ways which bring benefits to local communities and encourage social and economic progress.

**7.10.2** Part 1 of the UDP must:

- include strategic policies for the conservation and, where appropriate, enhancement of areas designated as being of international or national importance;
- provide for the conservation of biodiversity and landscape outside statutorily designated areas; and

**7.10.3** Part 2 of the UDP should:

- include detailed policies for the conservation and, where appropriate, enhancement of all international, national and local designated sites (including potential SPAs, candidate SACs and listed Ramsar sites). Policies should reflect their relative significance;
- provide criteria against which a development affecting the different type of designated site will be assessed;
- include policies for the conservation of landscape and amenity;
- provide for the conservation of biodiversity outside designated areas, in particular to identify opportunities to conserve important local habitats and species, to safeguard any landscape features of major importance for nature conservation or amenity and to conserve native woodland and trees;
- provide for the protection and enhancement of open space of conservation value and should also seek to identify opportunities to promote responsible public access for enjoyment of the natural environment where this is compatible with its conservation.
- make appropriate provision for Local Nature Reserves; and



- include policies for conserving the best and most versatile agricultural land.

The areas to which conservation policies apply should be clearly identified on the proposals maps.

## **7.11 Development Control and Conservation of the Environment**

7.11.1 Planning authorities should have full regard to biodiversity and landscape considerations in determining individual applications and contributing to the implementation of specific projects. **When considering a development proposal local planning authorities should, wherever possible, avoid adverse effects on the environment. Where other material considerations outweigh the potential adverse environmental effects, authorities should seek to minimise those effects and should, where possible, retain features of conservation importance. In some cases it will be necessary to refuse planning permission on conservation grounds. However, local planning authorities must always consider whether environmental considerations could be adequately addressed by modifying the development proposal or attaching appropriate planning conditions or obligations. Only where this is not possible and the adverse effect on the environment clearly outweighs other material considerations should the development be refused.**

### **References:**

1. **Biodiversity: The UK Action Plan, Cm 2428, HMSO, 1994.**
2. **Biodiversity: The UK Steering Group Report, HMSO, 1995.**
3. **'Government Response to the UK Steering Group Report on Biodiversity', Cm 3260, HMSO, 1996.**
4. **United Nations Convention on Biological Diversity, 1992.**
5. **Countryside and Rights of Way Act, 2000.**
6. **'Guidance for Local Biodiversity Action Plans', Guidance Notes 1-5, UK Local Issues Advisory Group, Local Government Management Board/UK Biodiversity Group, 1997.**
7. **'Action for Wildlife: Biodiversity Action Plans in Wales', CCW, 1996.**
8. **'The Context for Local Biodiversity Action Plans in Wales', Supplement to UK Guidance Note 3, Wales Biodiversity Group, 1998.**
9. **Rural Wales A Statement by the Rural Partnership, 1999.**
10. **Agricultural Land Classification of England and Wales, MAFF 1988.**
11. **Technical Advice Note (Wales) 6, 'Agricultural and Rural Development' 2000.**
12. **Conservation (Natural Habitats &c) Regulations 1994. SI No 1994/ 2716.**
13. **Countryside Act 1968.**
14. **Environment Act 1995, Part III.**
15. **Welsh Office Circular 13/99 'National Parks in Wales'.**
16. **Environment Act 1995 S.61.**
17. **Environment Act 1995 S.62**
18. **National Parks and Access to the Countryside Act 1949.**
19. **Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.**
20. **Wildlife and Countryside Act, 1981.**

21. **Technical Advice Note (Wales) 5, 'Nature Conservation and Planning', 1996.**
22. **EC Directive on Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive) (1992/43/ EEC).**
23. **EC Directive on the Conservation of Wild Birds (79/409/EEC).**
24. **Convention on Wetlands of International Importance especially as a Waterfowl Habitat, Ramsar, 1971 (as amended 1987).**
25. <http://www.jncc.gov.uk/idet/default.htm> – **provides details of SAC and SPA lists**; [http://www.ramsar.org/w.n.uk\\_ramsar\\_policy.htm](http://www.ramsar.org/w.n.uk_ramsar_policy.htm) – **provides a list of Ramsar sites.**
26. **Wildlife and Countryside Act, 1981 S.28G as amended by Sch 9 of the Countryside and Rights of Way Act, 2000.**
27. **The Town and Country Planning (General Permitted Development) Order, 1995, SI No 1995/ 419 as amended.**
28. **Landmap Handbook, CCW, (final version to be published Spring 2001)**
29. **Wildlife and Countryside Act 1981.**
30. **Protection of Badgers Act 1992.**
31. **Habitats Regulations, 1994.**

## **8. CONSERVATION OF THE HISTORIC ENVIRONMENT**

### **8.1 Historic Environment<sup>1,2,3,4</sup>**

**8.1.1 It is important that** the historic environment - encompassing ancient monuments, listed buildings, conservation areas and historic parks, gardens and landscapes – is protected. Local authorities should maintain and strengthen their crucial role in securing its conservation. The preservation and enhancement of the **historic** environment is a key aspect of local authorities' wider **sustainable development** responsibilities which should be taken into account both in the formulation of authorities' planning policies and in their exercise of development control functions.

**8.1.2 Authorities should seek to protect and conserve the historic environment, where possible, while ensuring that it accommodates and remains responsive to present day needs. The preservation and enhancement of the historic environment can contribute to the economic vitality and culture of an area, reinforce civic pride and improve the quality of life.**

**8.1.3 Unitary development plans (UDPs)** should set out policies for the preservation and enhancement of the historic environment in their area and the factors which will be taken into account in assessing planning applications. **UDPs** should also set out proposals for re-use or new development affecting historic areas and buildings, which may assist in the regeneration of rundown areas. **For historic buildings which no longer serve their original purpose, authorities should seek to find the best use that is viable over the long term without compromising the special architectural and historic interest of the building.**

**References:**

1. Planning (Listed Buildings and Conservation Areas) Regulations 1990. SI No. 1990/1519
2. Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'
3. Welsh Office Circular 1/98 'Planning and the Historic Environment: Directions by the Secretary of State for Wales'
4. Technical Advice Note (Wales) 12, 'Design', 1997

## 8.2 Listed Buildings<sup>1</sup>

**8.2.1 Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have regard to the desirability of preserving the building, its setting, or any features of special architectural or historic interest which it possesses.**

8.2.2 There is no statutory requirement to have regard to the provisions of the **unitary** development plan (**UDP**) when considering listed building consent, **since in these cases the Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply.** However, **UDPs** should include policies **for the conservation of the built environment** that are relevant to development control decisions **and which should be taken into consideration in the determination of applications for listed building consent.** **UDPs** should also include policies for works of demolition, alteration, **extension or re-use of listed buildings and their curtilages, outlining any criteria that will be applied to development proposals and** which could affect an authority's decision on a related application for planning permission.

8.2.3 The **Assembly** has a duty to compile lists of buildings of special architectural or historic interest. When considering applications for planning permission for development which affects a listed building or its setting, authorities are required to have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses.

8.2.4 The continuation or reinstatement of the original use should generally be the first option when the future of a listed building is considered. However, not all original uses will now be viable or necessarily appropriate. Policies for development and listed building controls should recognise the need for flexibility where new uses have to be considered to secure a building's survival. The aim should be to identify the optimum viable use that is compatible with the fabric, interior and setting of the historic building.

**8.2.5 Planning authorities must, unless directed otherwise, notify the Assembly before listed building consent is granted<sup>2</sup>.** Once a building is listed (or is the subject of a building preservation notice), consent is normally required<sup>3</sup> for its **total or partial** demolition and for any works of alteration or extension which would affect its character as a building of special architectural or historic interest. Controls apply to all works, both external and internal, that would affect a building's special interest. There should be a general presumption in favour of the preservation of listed buildings. Applicants for

listed building consent must be able to justify their proposals and show why alteration or demolition of a listed building is desirable or necessary.

8.2.6 While it is an objective of **Assembly** policy to secure the preservation of historic buildings, there will very occasionally be cases where demolition is unavoidable. Listed building controls ensure that proposals for demolition are fully scrutinised before any decision is reached. The demolition of any grade I or grade II\* listed building should be wholly exceptional and should require the strongest justification. The **Assembly** would not expect consent to be given for total or substantial demolition of any listed building without convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses, and these efforts have failed; that preservation in some form of charitable or community ownership is not possible or suitable; or that redevelopment would produce substantial benefits for the community which would decisively outweigh the loss resulting from demolition. Local planning authorities must, unless directed otherwise, notify the **Assembly** before listed building consent is granted. The Royal Commission on the Ancient and Historical Monuments of Wales is allowed access to buildings which it wishes to record before demolition takes place.

8.2.7 **The objectives of Listed Building designation can generally be met through a planning authority's development plan and development control functions. In exceptional circumstances, where there is a real and specific threat,** Article 4 Directions bringing certain categories of permitted development within planning control can be made by local authorities without the need for approval by the **Assembly**. **Directions must relate** solely to a listed building or to development within the curtilage of a listed building, provided they do not affect the carrying out of development by a statutory undertaker<sup>4</sup>.

## References:

1. Planning (Listed Buildings and Conservation Areas) Act 1990
2. Planning (Listed Buildings and Conservation Areas) Act 1990, Section 13
3. Planning (Listed Buildings and Conservation Areas) Act 1990, Section 7
4. Town and Country Planning (GPDO) 1995, Article 4

## 8.3 Conservation Areas<sup>5,6</sup>

8.3.1 Local planning authorities must designate as a conservation area any 'area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance'<sup>7</sup>. Authorities should advise Cadw: Welsh Historic Monuments Executive Agency when conservation areas are designated<sup>8</sup>. Conservation area designation introduces a general control over the demolition of unlisted buildings and is the main instrument available to authorities to give effect to conservation policies for a particular neighbourhood or area. Local planning authorities are required to formulate and publish proposals for the preservation and enhancement of conservation areas<sup>9</sup>. **The positive management of conservation areas is necessary if their character or appearance is to be protected and enhanced.**

**8.3.2** There is no statutory requirement to have regard to the provisions of the development plan when considering applications for conservation area consent, since in these cases the Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply. However, unitary development plans (UDPs) should include policies for the conservation of the built environment that are relevant to development control decisions and which should be taken into consideration in the determination of applications for conservation area consent. UDP policies should clearly identify what it is about the character or appearance of the area which should be preserved or enhanced, and set out the means by which that objective is to be pursued, integrating conservation policies with wider policies for the area. Plans should include policies outlining the criteria that will be applied to development proposals within conservation areas and their settings and outline any criteria that will be applied to development proposals for unlisted buildings within conservation areas. The development plan should not include policies for the designation of new / extension to existing conservation areas, or detailed statements of proposals for existing conservation areas.

**8.3.3** The preparation of townscape audits and conservation area character appraisals can assist planning authorities in the exercise of their planning and development control functions. UDPs should indicate how detailed assessment documents and statements of proposals for individual conservation areas relate to the plan, and what weight will be given to them in decisions on applications for planning permission and conservation area consent.

**8.3.4** **UDP** policies should make it clear that development proposals will be judged for their effect on the character and appearance of the conservation area. While consideration of the character or appearance of conservation areas must be a major consideration, this cannot take the form of preventing all new development. Policies will need to be designed to allow the area to remain alive and prosperous, and to avoid unnecessarily detailed controls over businesses and householders, but at the same time to ensure that any new development accords with the area's special architectural and historic interest.

**8.3.5** If any proposed development would conflict with the objective of preserving or enhancing the character or appearance of a conservation area, **or its setting**, there will be a strong presumption against the grant of planning permission. In exceptional cases the presumption may be overridden in favour of development which is desirable on the ground of some other public interest. The Courts have held that the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.

**8.3.6** Conservation area designation introduces control over the **total** demolition<sup>10</sup> of **unlisted** buildings within conservation areas<sup>11</sup>. **Partial demolition of an unlisted building within a conservation area does not require conservation area consent.** Procedures for conservation area consent are essentially the same as for listed building consent. In exercising controls, account should be taken of the part played in the architectural or historic interest of the area by the building for which demolition is proposed, and in particular of the wider effects of demolition on the building's surroundings and on the conservation area as a whole. The general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of a

conservation area.

**8.3.7 The objectives of conservation area designation can generally be met through a planning authority's development plan and development control functions. In exceptional circumstances, where there is a real and specific threat, Article 4** directions have a role to play in helping to protect features that are key elements of **the character and appearance of** particular conservation areas. The designation of a conservation area does not in itself automatically justify making an Article 4 direction.

8.3.8 The GPDO requires planning applications for certain types of development in conservation areas which are elsewhere classified as permitted development. Local planning authorities can also restrict specific permitted development rights in relation to dwelling houses in conservation areas, where the permitted development would front a highway, waterway or open space. The **Assembly's** approval is not required, but authorities must notify residents and take account of local views before confirming the Article 4(2) direction. The withdrawal of permitted development rights outside these specified categories continues to require Article 4(1) directions for which the **Assembly's** approval is normally needed before they can become effective.

8.3.9 The **Assembly** will **consider the approval of Article 4(1) Directions where they** are backed by a clear assessment of an area's special architectural and historic interest; the importance to **the** special interest of the features in question is established; the Direction involves the minimum withdrawal of permitted development rights necessary to achieve its objective and the planning authority can demonstrate local support for the direction.

8.3.10 It is generally preferable for both the applicant and the planning authority if related applications for planning permission and for listed building or conservation area consent are considered concurrently.

## **References:**

5. Welsh Office Circular 29/95 'General Development Order Consolidation 1995'
6. Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'
7. Planning (Listed Buildings and Conservation Areas) Act 1990, Section 69
8. Planning (Listed Buildings and Conservation Areas) Act 1990, Section 70(5)
9. Planning (Listed Buildings and Conservation Areas) Act 1990, Section 71
10. Planning (Listed Buildings and Conservation Areas) Act 1990, Section 74
11. Planning (Listed Buildings and Conservation Areas) Act 1990, Section 75

## 8.4 Historic Landscapes, Parks and Gardens

8.4.1 No additional statutory controls follow from the inclusion of a site on the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales<sup>12</sup>. The Register is being prepared in two parts. Local planning authorities should protect registered parks and gardens and take the first part of the Register, covering parks and gardens, into account in preparing development plans and in determining planning applications. Once this part is complete, arrangements for statutory consultation on planning applications affecting parks and gardens on the Register will be introduced. In the meantime, voluntary arrangements exist where sections of the Register have already been published. Information on the landscapes on the second part of the Register should also be taken into account by local planning authorities in preparing development plans, and in considering the implications of developments which are of such a scale that they would have a more than local impact on an area on the Register.

### References:

12. 'Register of Landscapes, Parks & Gardens of Special Historic Interest in Wales', Cadw

## 8.5 World Heritage Sites

8.5.1 No additional statutory controls follow from the inclusion of a site in the World Heritage List although the inclusion of a site highlights the outstanding international importance of the site as a key material consideration to be taken into account by local planning authorities in determining planning applications and listed building consent applications, and by the **Assembly** in determining cases on appeal and following call-in.

## 8.6 Archaeology<sup>13</sup>

**8.6.1 Archaeological remains are a finite and non-renewable resource. They form an important part of our sense of identity and are valuable both for their own sake and for their role in education, leisure and tourism. Maintenance of the archaeological environment is necessary to ensure the sustainability of this resource for future generations.**

8.6.2 The desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or unscheduled. Where nationally important archaeological remains, whether scheduled or not, and their settings are affected by proposed development, there should be a presumption in favour of their physical preservation. Cases involving lesser archaeological remains will not always be as clear cut and planning authorities will need to weigh the relative importance of archaeology against other factors including the need for the proposed development.

**8.6.3 Unitary development plans (UDPs) should include policies for the protection, enhancement and preservation of sites of archaeological interest and their settings.**

Archaeological remains identified and scheduled as being of national importance should normally be earmarked in **UDPs** for preservation. Authorities should bear in mind that not all nationally important remains meriting preservation will necessarily be scheduled; such remains and, in appropriate circumstances, other unscheduled archaeological remains of more local importance **and their settings**, may also be identified in **UDPs** as particularly worthy of preservation.

8.6.4 The needs of archaeology and development can be reconciled, and potential conflict very much reduced, if developers discuss their preliminary plans for development with the planning authority at an early stage. In certain circumstances, this may involve the developer in commissioning an archaeological assessment (sometimes as part of a wider Environmental Impact Assessment) before submitting a planning application. If important remains are thought to exist at the development site, it is reasonable for the planning authority to request the prospective developer to arrange for an archaeological field evaluation to be carried out before any decision on the planning application is taken.

8.6.5 **Local** planning authorities should not include in their **UDPs** policies requiring developers to finance archaeological works in return for the grant of planning permission. By the same token, developers should not expect to obtain planning permission for archaeologically damaging development merely because they arrange for the recording of sites whose physical preservation in situ is both desirable (because of their level of importance) and feasible.

8.6.6 Where planning authorities decide that physical preservation in situ of archaeological remains is not justified in the circumstances of the case, and that development resulting in the destruction of the archaeological remains should proceed, it would be entirely reasonable for the planning authority to satisfy itself, before granting planning permission, that the developer has made appropriate and satisfactory provision for the archaeological investigation and subsequent recording of the remains and the publication of the results of that work.

8.6.7 In cases when planning authorities have decided that planning permission may be granted but wish to secure the provision of appropriate archaeological investigation and subsequent recording of the remains, it is open to them to do so by use of a negative condition, i.e. a condition prohibiting the carrying out of the development until such time as works or other action (for example, an excavation), have been carried out by a third party<sup>14</sup>.

8.6.8 Scheduled ancient monuments are exempt from conservation area control; Scheduled Monument Consent for proposed works to a scheduled ancient monument must be sought from the **Assembly**. Planning permission alone is not sufficient to authorise the works<sup>15</sup>.

## **References:**

13. Ancient Monuments and Archaeological Areas Act 1979

14. Welsh Office Circular 60/96, 'Planning and the Historic Environment: Archaeology'

15. Ancient Monuments (Class Consents) Order 1994, SI No1994/1381



## **9. URBAN AREAS**

### **9.1 Urban Wales**

**9.1.1 Most people in Wales live in towns, cities and urban areas. These vary in size, density and character, but are distinct from rural settlements and villages. Planning policy for urban areas is summarised here, but should be considered in conjunction with the more detailed sectoral policy in other sections of this document. The strengths of urban communities should be recognised, thereby encouraging a positive attitude to urban living. Concentration of development in urban areas will make the most efficient use of land and reduce the need to build on greenfield sites. Development in urban areas should facilitate sustainable change. It should improve the local environment, how the area functions and the quality of life for the residents, businesses and those who work in, or visit, the area. It can also help social, economic and environmental regeneration, tackling social disadvantage by reducing isolation, and arresting the decline in community facilities<sup>1,2,3,4</sup>.**

### **9.2 Unitary Development Plans**

**9.2.1 Unitary development plans (UDPs) have a major role in setting out the vision for urban areas. This vision should consider the future relationship between settlements and their rural hinterlands. UDPs also have a role in facilitating sustainable patterns of development, identifying previously used land and buildings, and locations for higher density development at hubs and interchanges and close to route corridors where public transport accessibility is good.**

**9.2.2 UDPs should encourage a mix of uses in town centres and other appropriate places to add activity and choice of places to live. Integration of different uses in accessible locations can increase social inclusion, reduce the need to travel and make towns safer for people both day and night. Mixed use can incorporate all or a selection of office, leisure, retail, community and residential uses if sensitively designed. UDPs should identify the range of facilities and activities that communities wish to be provided and maintained in urban locations. A design framework is an important tool for helping to revitalise towns. Good design is essential to ensure that areas, particularly those where higher density development takes place, offer high environmental quality, including open and green spaces.**

### **9.3 Development Control**

**9.3.1 Development control decisions will need to take into account the distinctive character and complexity of individual urban areas. Proposals should demonstrate how the development will resolve conflicts and enhance its setting and the area as a whole.**

**References:**

1. **Planning for Sustainable Development: Towards Better Practice, DETR, November 1998**
2. **The Urban White Paper 'Our Towns and Cities: The Future Delivering an Urban Renaissance', DETR, November 2000**
3. **BetterWales.com**
4. **'Communities First', National Assembly for Wales, April 2000.**

## **10. GREEN BELTS**

### **10.1 Purpose and Designation**

10.1.1 There are currently no Green Belts in Wales although there are areas in Wales where Green Belts may be an effective means of preventing urban sprawl and keeping land open permanently. The **Assembly** encourages local planning authorities in the more heavily populated parts of Wales which are subject to very significant pressures for development, to seriously consider the need for Green Belts.

10.1.2 The most important attribute of Green Belts is their openness: to maintain this openness, development within a Green Belt must be strictly controlled. The general policies controlling development in the countryside apply in a Green Belt but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation (see paragraph **10.2**).

10.1.3 Green Belts should be established through development plans, which must justify the need for such areas, demonstrate why normal planning and development control policies, including green barrier/green wedge policies would not be adequate and include policies for the strict control of development within Green Belts. The designation of a Green Belt is likely to affect more than one local authority and consultation will be necessary with all authorities likely to be affected.

10.1.4 The purpose a Green Belt is to:

- prevent the coalescence of large towns and cities with other settlements;
- manage urban form through controlled expansion of urban areas;
- assist in safeguarding the countryside from encroachment;
- protect the setting of an urban area;
- assist in urban regeneration by encouraging the recycling of derelict and other urban land.

10.1.5 Land in Green Belts can fulfil the following objectives:

- provide opportunities for access to the open countryside;
- provide opportunities for outdoor sport and outdoor recreation;
- maintain landscape/wildlife interest;
- retain land for agriculture, forestry, and related purposes;

- improve derelict land.

10.1.6 The extent to which the use of land fulfils these objectives is however not a material factor in determining whether land should be included within a Green Belt.

10.1.7 The essential characteristic of Green Belts is their permanence and their boundaries should be chosen carefully using physical features and boundaries to include only that land which it is necessary to keep open in the longer term. Boundaries should be altered only in exceptional circumstances and land within a Green Belt should be protected for a longer period than the current development plan period.

10.1.8 When considering Green Belt designation local planning authorities will need to ensure that a sufficient range of development land is available which is suitably located in relation to the existing urban edge and the proposed Green Belt, bearing in mind the longer term need for development land, the effects of development pressures in areas beyond the Green Belt and the need to minimise the requirement for travel. This may require land to be safeguarded, and boundaries of a proposed Green Belt must be carefully defined to achieve this. Green Belts will not necessarily need to extend in a continuous band around an urban area.

10.1.9 Settlements and other developed sites within a Green Belt should only be included as part of the Green Belt if no new building or infilling only is proposed. Policies should list and define the boundaries of settlements where infilling would be permitted. Settlements and other sites where limited expansion is proposed should be excluded from the Green Belt and policies for those settlements should be included in the development plan.

**10.1.10 Before designating Green Belts, local planning authorities should consider if plan policies for green wedge / barriers would be more appropriate. These do not have the same degree of permanence as Green Belts and therefore may provide a more flexible approach.**

## **10.2 Inappropriate Development in Green Belts**

**10.2.1 When considering applications for planning permission, local planning authorities should attach substantial weight to any harm which a development would have on the Green Belt.**

10.2.2 The construction of new buildings in a Green Belt is inappropriate development unless it is for the following purposes:

- **meeting justified** agricultural and forestry **needs**;
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings; or
- limited infilling (in these settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under development plan policies.

10.2.3 The re-use of buildings in a Green Belt is not inappropriate development provided:

- the original building is substantial, permanent and capable of conversion without major reconstruction;
- the new use will not have a greater impact on the openness of the Green Belt and the purposes of including land within it (strict control will need to be exercised over the extension, alteration or any associated use of land for re-used buildings); and
- the building is in keeping with its surroundings.

10.2.4 Other forms of development would be inappropriate development unless they maintain the openness of the Green Belt and do not conflict with the purposes of including land within it.

10.2.5 Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would have on the Green Belt. Green Belt policies in development plans should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan.

## **11. THE COAST**

**11.1 Local planning authorities should consider the importance of the coast for conservation of the natural and historic environment, tourism and local industry, and acknowledge the inter-relationships between the physical, biological and land use characteristics of their coastal areas. Local planning authorities should clearly set out what the coast means for them and develop, or apply, specific policies which reflect the characteristics of their coastlines. This will enable local planning authorities to identify those areas likely to be suitable for development, those areas subject to significant constraints and those areas considered to be unsuitable for development. Such areas may include those where conservation of the natural and historic environment requires development to be limited, where visual intrusion will need to be carefully considered and where due regard should be paid to the risk of erosion, flooding or land instability.**

**11.2 The seaward limit of planning control is generally the mean low water mark, but between high and low water mark the planning system usually needs to operate in tandem with a range of sectoral controls over coastal and marine development. For example, while planning control does not extend below the low water mark, the SAC designation may be applied to marine habitats as both existing and potential SACs and SPAs include a number of estuarine and other coastal areas. Planning authorities will have an important role in the protection of marine and coastal Natura 2000 areas where a land based development might have an effect on the reasons for designation, and in preventing any significant effect on such areas of nature conservation interest.**

11.3 Development plans should normally only propose coastal locations for development which needs to be on the coast<sup>1</sup>. In particular, the undeveloped coast will rarely be the most appropriate location for development. The developed coast, by contrast, may provide opportunities for restructuring and

regenerating existing urban areas. Where new development requires a coastal location, the developed coast will normally provide the best option, provided that due regard is paid to the risks of erosion, flooding or land instability.

11.4 Policies should aim to protect and enhance the character and landscape of the undeveloped coastline. Planning policies to be pursued in Heritage Coast areas should be incorporated in development plans. For estuaries and parts of the open coast, local planning authorities and other agencies and interest groups may co-operate to prepare estuary or coastal management plans. These should complement and be consistent with development plans.

11.5 Before major developments are permitted it will be essential to demonstrate that a coastal location is required. Proposed developments of national or regional importance that require a coastal location will normally be included in the development plan.

11.6 New coastal development should not generally be permitted in areas which would need expensive engineering works, either to protect developments on land subject to erosion by the sea or to defend land which might be inundated by the sea. There is also the need to consider the possibility of such works causing a transfer of risks to other areas.

11.7 In considering applications for planning permission for new coastal defence works, **local planning authorities should take into account** all potential environmental effects, both on and off-shore, **and information contained in shoreline management plans**. In low lying, undeveloped coastal areas, options for coastal defence may include a policy of managed set back<sup>2</sup>.

## References:

1. **Technical Advice Note (Wales) 14, 'Coastal Planning', 1998**
2. **'Strategy for Flood and Coastal Defence in England and Wales', MAFF / Welsh Office, 1993.**

## 12. TRANSPORT

### 12.1 Objectives

12.1.1 The **Assembly** aims to extend choice in transport and secure **accessibility** in a way which supports sustainable development by encouraging the development of an integrated transport system which is safe, efficient, clean and fair<sup>1,2</sup>. This will be achieved and the environment protected by:

- **integration within and between different types of transport;**
- **integration with land use planning;**
- **integration with the environment; and**
- **integration with policies for education, health and wealth creation.**

**12.1.2 The Assembly's strategic plan, BetterWales, commits the Assembly to set out a new transport policy which puts the emphasis on achieving accessibility and strengthens the Assembly's ability to support local and regional solutions<sup>3</sup>. To help achieve this objective the Assembly will prepare a Transport Framework to identify and fill gaps in services and infrastructure to extend better service throughout Wales. The Transport Framework will be linked to the Spatial Planning Framework and provide the context for Local Transport Plans (LTP's)**

**12.1.3 Land use planning can help to achieve the Assembly's objectives for integrated transport through:**

- **reducing the need to travel by locating development where there is good access by public transport, walking and cycling;**
- **locating development near other related uses to encourage multi-purpose trips;**
- **improving accessibility by walking, cycling and public transport;**
- **promoting cycling and walking;**
- **supporting the provision of high quality public transport;**
- **supporting traffic management measures; and,**
- **supporting necessary infrastructure improvements.**

## **12.2 Accessibility and the Location of Development**

**12.2.1 Improving accessibility is a key objective for the planning system that can be achieved by ensuring that housing, jobs, shopping, leisure and services are highly accessible by public transport, walking and cycling. Planning can also play a significant role in achieving the Assembly's objectives for social inclusion by ensuring that development is accessible to all by means other than the private car.**

**12.2.2 Planning authorities should assess the extent to which their UDP settlement strategy and new development is consistent with minimising the need to travel and increasing accessibility by modes other than the private car. A broad balance between housing and employment opportunities should be promoted to minimise the need for long distance commuting. Local authorities should adopt policies to locate major generators of travel demand such as housing, employment, retailing, leisure and recreation, and community facilities including libraries, schools and hospitals within existing urban areas or in other locations which are, or can be, well served by public transport, or can be reached by walking or cycling. Preparing accessibility profiles for public transport, walking and cycling may assist local authorities in plan preparation and assessing possible development sites. Wherever possible travel intensive developments should be located at major public transport nodes or interchanges. Higher density development, including residential development should be encouraged, near public transport nodes, or near corridors well served by public transport (or with the potential to be so served).**

**12.2.3 Planning authorities should reassess development sites which are highly accessible to non-car modes and allocate them for travel intensive uses such as offices, shopping, leisure,**

hospitals and housing of sufficient density to fully utilise the accessibility potential of the site. Sites which are unlikely to be well served by public transport, walking and cycling should either not be allocated for development or be allocated or reallocated for uses which are not travel intensive.

12.2.4 In rural areas the majority of new development should be located in those settlements which have good accessibility by non-car modes when compared to the rural area as a whole. Local service centres should be designated by local authorities and be identified as the preferred locations for most new development including housing and employment provision. The approach should be supported by the LTP strategy and where appropriate the service delivery plans of local service providers.

## **12.3 Walking and Cycling**

12.3.1 Walking should be promoted as the main mode of transport for shorter trips. The impact of policies and development on pedestrians should be considered. Planning authorities should promote the implementation of specific measures to assist pedestrians including the provision of safe and convenient routes between facilities and the arrangement of land use and urban design.

12.3.2 Cycling should be encouraged as a substitute for shorter car journeys or, as part of a longer journey when combined with public transport. The National Cycling Strategy set a target to double (based on 1996 figures) the number of cycle trips by 2002, and double them again by 2012<sup>4</sup>. Local authorities should encourage the implementation of specific measures to develop safe cycling, including new or improved routes, secure parking and changing facilities in major developments. Encouraging cycling and walking will also contribute to the Assembly's aim of improving the levels of health in Wales.

## **12.4 Public Transport**

12.4.1 Local authorities should promote public transport as a means to achieve environmental objectives, assist in relieving congestion and encourage social inclusion. Appropriate measures include improved facilities for railway and bus passengers, park and ride schemes, and measures to encourage better services. Local authorities may wish to explore the potential for re-opening rail lines or the provision of new stations and enhanced passenger services on existing lines. Rail services with their fixed infrastructure can provide the greatest certainty for developers and can provide a focus for regeneration and new development. Bus services, especially in urban areas can also provide certainty for developers particularly where supporting facilities and priority schemes, such as bus lanes, are provided.

12.4.2 The ease of interchange between transport modes and personal safety are also important determinants of public transport use. Planning authorities should identify the need for additional interchange sites and improvements to existing interchanges, including measures to promote personal safety. In rural areas interchange sites should be identified at nodes where the transfer between local and long distance public transport services can take place. Where the LTP has identified a requirement for park and ride facilities, planning

authorities should identify suitable sites in the UDP. Park-and-ride should normally be considered as one element of a comprehensive planning and transport strategy designed to improve the relative attractiveness of public transport and reduce the overall dependence on cars.

**12.4.3 Local authority support for bus services, passenger rail services or proposals for associated facilities should be consistent with locational policies<sup>5</sup>. Where additional public transport would be required to allow development to proceed the local planning authority should include an appropriate policy in the UDP and LTP. Where development can only take place with improvements to public transport services, local authorities should consider the use of planning conditions and/or planning obligations.**

## **12.5 Traffic Management and Parking**

**12.5.1 Local authorities should adopt an integrated approach to traffic management. They should consider how different measures can complement each other and contribute to the achievement of wider planning and transport objectives. Within town centres priority should be given to walking, cycling and public transport through the reallocation of road space. In established urban and rural neighbourhood areas traffic management measures should be adopted to improve the street environment and promote road safety, whilst in areas of new development traffic calming measures should be incorporated from the outset. Traffic management measures in rural areas should be sympathetic to the character of the area whilst achieving reduced traffic speed, and environmental and safety improvements<sup>6</sup>.**

**12.5.2 The provision of car parking is a major influence on the choice of means of transport and the pattern of development. Local authorities should ensure that lower levels of parking are provided in association with development than has generally been achieved in the past. Local authorities should develop an integrated strategy on parking, which utilises planning policies and transport measures to support the overall transport and locational policies of the UDP. Local authorities should establish maximum levels of parking and thresholds for application for broad classes of development. Minimum parking standards are no longer appropriate. Local planning and highway authorities will need to ensure that their parking standards reflect local transport provision and, where appropriate, are prepared and kept under review in collaboration with neighbouring authorities, to achieve a consistent approach.**

**12.5.3 Local authorities' parking controls, charges and policies need to address the provision and management of on-street parking, and of off-street parking where it is under their control, and the standards which are to be applied to new developments. As part of the overall approach to parking local authorities should adopt on-street measures which complement land use policies. Private non-residential parking is an important component of parking provision in town centres. Authorities should, where appropriate, seek to encourage appropriate redevelopment or re-use of existing private parking to bring them down to revised standards and refuse planning permission for public and private car parks which do not meet the strategic aims of the UDP and LTP.**

## **12.6 Planning for Transport Infrastructure**



**12.6.1 Local authorities should utilise available powers to reduce the need to use trunk roads and other through routes for short, local journeys. UDPs should specify the primary road network, including trunk roads, and separately identify the core network<sup>7</sup>. These routes should be identified as corridors for movement adjacent to which development will be resisted. Plans should include all proposals for new roads and major improvements to the primary route network over the plan period and beyond, where known, and the broad policy on priorities for minor improvements. For local road schemes the UDP procedures provide the means to examine both the need and the alignment.**

**12.6.2 Plans should also include policies and proposals relating to the development of other transport infrastructure and related services (e.g. public transport interchange facilities, rail facilities, harbours and airports including safeguarding zones). Where local planning authorities wish to safeguard land for transport infrastructure, including schemes identified in the LTP, they should do so through a proposal in the UDP, where possible showing the precise route of the proposed new or improved infrastructure. When the precise route is not known, a safeguarding policy may be applied to the area of land necessary for the scheme. Blight should be kept to a minimum by including in plans only firm schemes on which work will commence within the plan period. The process of preparing or amending UDPs should review transport proposals and remove proposals that have previously been safeguarded and are now abandoned.**

**12.6.3 The strategic significance of freight access to industry and commerce should be taken into consideration by local planning authorities<sup>8</sup>. Wherever possible the carriage of freight by rail, water or pipeline rather than road should be promoted. Local authorities should consider which routes are most suitable for use by road freight and encourage the location or relocation of distribution and operating centres and other developments generating frequent road freight movements on sites which have good access to these routes. Wherever possible, new facilities should also be located adjacent to railways and/or ports to promote modal transfer.**

**12.6.4 Local authorities should consider the potential for promoting the use of railways for additional passenger and freight traffic. They should identify new infrastructure (including park and ride sites), multimodal transfer facilities and, where appropriate, major employment sites with access to railways. Disused railways and disused or unused rail sidings should be safeguarded from development where there is a realistic prospect for their use for transport purposes in the future. As an interim measure it may be appropriate to use disused rail alignments as open space corridors, for example for walking and cycling.**

**12.6.5 Developments at airports may provide improved facilities and bring economic benefits, but may also give rise to environmental and other concerns that will need to be taken into account. Airports can also potentially become major generators of traffic and attract a range of unrelated developments. Careful consideration needs to be given to the extent to which a proposed development is related to the operation of the airport and is sustainable given the existing and planned levels of public transport.**

**12.6.6 Planning authorities should seek to promote the use of ports by the retention or**

provision of appropriate wharf, dock, harbour and rail transfer facilities, and by the protection or provision of access to them<sup>9</sup>. The provision of these facilities needs to be weighed against environmental considerations, such as the loss or erosion of estuarine habitats. Inland waterways in Wales are principally used for recreation purposes<sup>10,11</sup>.

**12.6.7** Great care must be taken to minimise the impact of transport infrastructure projects, or improvements to existing infrastructure, on the natural, historic and built environment. Routes should make the best use of existing land forms and other landscape features to reduce noise and visual effects, subject to safety and other environmental considerations<sup>12,13,14</sup>. Where no other alternative routes or options are practicable transport schemes should provide mitigation measures which minimise the impacts caused by the construction and operation of transport infrastructure.

## **12.7 Unitary Development Plans and Transport**

**12.7.1** UDPs provide the main means for achieving integration between land use and transport. They must provide an explanation of the overall aims of an authority's transport policies and the way in which those transport policies support the other policy aims of the plan. Plans should provide the means for:

- examining the relationship between transport and land use planning;
- promoting the integration and co-ordination of transport and land use planning; and
- promoting strategies to reduce the need to travel.

**12.7.2** Part 1 of the UDP must:

- set out the land use/transportation strategy addressing accessibility and the provision of strategic and integrated transport facilities including roads, railways and other infrastructure.

**12.7.3** Part 2 of the UDP should:

- ensure that new housing, jobs, shopping, leisure and services are highly accessible by public transport, walking and cycling;
- locate major generators of travel demand within existing urban areas, or in other locations that can be well served by public transport, walking or cycling;
- encourage higher density and mixed-use development near public transport nodes, or near corridors well served by public transport;
- in rural areas, designate local service centres as the preferred locations for new development;
- include specific measures to promote walking and cycling;
- set out policies to promote the use of public transport including new and improved

- interchange facilities and where appropriate park and ride schemes;
- include appropriate traffic management policies;
- set maximum levels of parking and thresholds for application for broad classes of new development;
- identify the primary road network, including trunk roads, and separately identify the core network;
- identify proposals for new roads and major improvements to the primary route network and the broad policy on priorities for minor improvements;
- include policies and proposals relating to the development of transport infrastructure other than roads;
- protect disused transport infrastructure, including railways and rail sidings, from development that would compromise their future transport use, where re use is a possibility; and,
- minimise the impact of transport infrastructure projects on the natural, historic and built environment.

## **12.8 Relationship between Unitary Development Plans and other plans and strategies**

**12.8.1 UDP strategies and policies need to be consistent and integrated with the strategies and policies contained in LTPs, Road Traffic Reduction Reports and Air Quality Management Plans. Each local authority must prepare a LTP setting out its proposals for the co-ordination and improvement of all transport modes, future investment priorities and the implementation of specific measures<sup>15</sup>. Any specific LTP proposal that directly involves the development or use of land, or has land use implications, should appear as a policy or proposal in the UDP.**

**12.8.2 The Road Traffic Reduction Act 1997 requires local authorities to produce a report setting out an assessment of the traffic on the roads for which it is the local highway authority and a forecast of expected growth in those levels<sup>16,17</sup>. The report should also contain targets for reducing levels of local road traffic or the rate of growth of those levels. UDP policies should be consistent with the approach adopted to fulfil these obligations and any national targets set by the Assembly under the Road Traffic Reduction (National Targets) Act 1998<sup>18</sup>.**

**12.8.3 Transport emissions contribute significantly to climate change and poor local air quality, which can in turn affect people's health. The Environment Act 1995 requires local authorities to review and assess air quality in their areas to determine whether air quality objectives are likely to be met<sup>19</sup>. Where it is found that air quality objectives are unlikely to be met an air quality management area must be declared and an action plan developed<sup>20,21,22</sup>. UDP policies and decisions on planning applications should take into account statutory air quality objectives, together with the results of air quality reviews and assessments and any Air Quality Management Plans Area Action Plans.**

## **12.9 Development Control and Transport.**

**12.9.1 When determining planning applications for development that has transport implications, local planning authorities should take into account:**

- the impacts on travel demand of the proposed development;
- the level and nature of public transport provision;
- accessibility by a choice of means of travel;
- the willingness of a developer to provide infrastructure or measures to manage traffic or promote travel by public transport, walking or cycling, to overcome objections to a proposed development (payment for such measures will not, however, justify granting planning permission to a development for which it would not otherwise be granted); and
- the safety and convenience of other users of the transport network.

**12.9.2 Transport assessments should be conducted for major developments to appraise travel demand and impact. They can also provide the basis for negotiation on scheme details, including the level of parking, measures to improve public transport access and travel plans.**

**12.9.3 The access to a development should reflect the likely travel patterns involved. It should ensure that people can access the development, as far as practical, by walking, cycling and public transport, as well as by car. Where transport improvements will be needed to enable the proposal to go ahead, these should normally be provided first.**

**12.9.4 Direct access onto primary routes from new development should be avoided where possible. Where feasible, access should be on to a secondary route. At any location, traffic flow and safety can be assisted by good junction design. The number of accesses permitted will depend upon the type and nature of the road. Similarly, the type of access provided should reflect the type of road and the volume and character of traffic likely to use the access and the road<sup>23,24</sup>. Large-scale development proposals may merit special traffic measures and road works to cater for them in the existing network. Direct access to a motorway or motorway slip road would not be acceptable other than to a motorway service area approved by the Assembly.**

**12.9.5 Where necessary, planning conditions may legitimately be imposed on the grant of planning permission to secure on-site transport measures and facilities as part of the proposed development. Planning obligations may also be used in appropriate circumstances to secure off-site improvements in public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved.**

## **References:**

- 1. A New Deal for Transport: Better for Everyone: cm 3950. DETR, Welsh Office, Scottish Office, DENI, 1998.**
- 2. Transporting Wales into the Future, Welsh Transport Policy Statement, Welsh Office, 1998.**

3. [www.betterwales.com](http://www.betterwales.com), The First Strategic Plan for National Assembly for Wales, National Assembly for Wales, 2000.
4. National Cycling Strategy, DETR, 1996.
5. From Workhorse to Thoroughbred: A Better Role for Bus Travel, DETR, 1999.
6. Planning Guidance (Wales) Technical Advice Note (Wales) 18 'Transport', Welsh Office, 1998.
7. 'Driving Wales Forward - A Strategic Review of the Welsh Trunk Roads Programme', Welsh Office, 1988.
8. 'Sustainable Distribution: A Strategy', DETR, 1999.
9. 'British Shipping Charting a New Course', DETR 1998.
10. Planning Guidance (Wales) Technical Advice Note (Wales) 14 'Coastal Planning', Welsh Office, 1998.
11. 'Waterways for Tomorrow', DETR, 2000
12. 'Roads in Upland Areas', Welsh Office, 1990.
  1. 'Roads in Lowland Areas', Welsh Office, 1994.
14. Planning Guidance (Wales) Technical Advice Note (Wales) 11 'Noise', Welsh Office, 1997.
15. Guidance on Local Transport Plans in Wales, National Assembly for Wales, 1999.
16. Road Traffic Reduction Act, 1997.
17. Road Traffic Reduction Act 1997: Draft Guidance to Welsh Local Authorities, Welsh Office, 1997.
18. Road Traffic Reduction (National Targets) Act 1998.
18. Environment Act, 1995, Section IV, Air Quality.
20. The Air Quality Strategy for England, Scotland, Wales and Northern Ireland, DETR, HMSO, 2000.
21. Air Quality and Land Use Planning LAQM.G4(00). DETR / National Assembly for Wales, 2000.
22. Air Quality (Wales) Regulations 2000 – SI No. 1940 (W.138)

23. Design Bulletin 32, Residential Roads and Footpaths - layout considerations, DOE/DOT, HMSO, 1992.

24. Places, Streets and Movement - A Companion Guide to DB3

## 13. INFRASTRUCTURE

### 13.1 General

13.1.1 The capacity of existing infrastructure including services such as education and health facilities, roads, water supply and sewers, electricity, gas and telecommunications and the need for additional facilities, should be taken into account in the preparation of development plans and the consideration of planning applications.

### 13.2 Utilities

13.2.1 In preparing plans, authorities should consider both the siting requirements of the utilities to enable them to meet the demands that will be placed upon them and the environmental effects of such additional uses. Development may need to be phased to allow time to ensure that the provision of utilities can be managed in a way consistent with general policies for the environment. **Development proposals in sewered areas must connect to the main sewer, and planning authorities should ensure that developers can demonstrate that their proposal site can connect to the nearest main sewer. Development proposing the use of non-mains drainage schemes will only be considered acceptable where connection to the main sewer is not feasible<sup>1</sup>. Non-mains sewage proposals, such as septic tanks and surface water drainage schemes included in development applications, should be the subject of an assessment of their effects on the environment, amenity and public health in the locality in accordance with the criteria set out in Circular 10/99, prior to the determination of the planning application. A catchment wide perspective should be adopted including the use of Sustainable Urban Drainage Systems, where appropriate.**

#### References:

1. Welsh Office Circular 10/99, 'Planning requirements in respect of the use of non-mains sewerage, incorporating septic tanks in new development'.

### 13.3 Telecommunications<sup>1</sup>

(Issued separately for consultation on 8 November 2000. The consultation period ended on 5 January 2001 and comments are therefore not sought on this section.)

**[13.3.1 The Assembly's policy is to facilitate the development of an advanced broadband telecommunications infrastructure throughout Wales whilst keeping the environmental impact to a minimum. The Assembly also has responsibility for protecting public health. The Assembly has well established national policies for the protection of the countryside and urban areas - in particular the National Parks, Areas of Outstanding Natural Beauty, Sites of Specific Scientific Interest, the Heritage Coast and areas or buildings of architectural or historic importance. Local planning authorities are encouraged to respond positively to telecommunications development proposals, while taking account of the advice on the protection of urban and rural areas. Authorities should have regard to any technical constraints on the location and proposed development. They should also bear in mind the wider environmental benefits (for example if driver information systems ensure better use of existing roads infrastructure, or if the application of telecommunications technology reduces the need to travel).**

**13.3.2 Authorities should not question the need for the service ~~that the~~ proposed development is to support, nor seek to prevent competition between different operators. The aim should be for the authorities and operators to work together to find optimum solutions to development requirements. The Assembly strongly encourages pre-development discussions between operators, authorities, local people and other interested bodies.**

**13.3.3 Development plans should set out policies and proposals for the location of telecommunications development, allocating sites for major developments and including criteria-based policies to guide telecommunications developments where sites other than those identified in the plan may be proposed.**

**13.3.4 Criteria should be sufficiently flexible to accommodate technological change and may be concerned with the siting and appearance of apparatus, including location and landscaping requirements designed to minimise the impact on amenity consistent with operational requirements.**

**13.3.5 Health considerations and public concern can, in principle, be material considerations in determining applications for planning permission and prior approval. Whether such matters are material in a particular case is ultimately a matter for the courts. It is for the decision-maker to determine what weight to attach to such considerations in any particular case.**

**13.3.6 In deciding what weight to put on health considerations and public concern, authorities are advised to have regard to the report of the Independent Expert Group on Mobile Phones (IEGMP) (the Stewart Group's Report)<sup>2</sup> and to this guidance. It is the Assembly's view that, if a proposed development meets the International Commission on Non - Ionising Radiation Protection (ICNIRP) guidelines as expressed in the EU Council Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (as recommended by the Group on a precautionary basis), it should not be necessary for an authority, in processing an application, to consider health effects further. All new base stations are expected to meet the ICNIRP guidelines.**

**13.3.7 The Stewart Group's report suggested a number of specific precautionary actions that have been accepted by the Assembly. The report does not provide any basis for precautionary**

**actions beyond those already proposed. In the Assembly's view, local planning authorities should not implement their own precautionary policies e.g. imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunications development and existing development.**

*13.3.8 In any development, significant and irremediable radio interference with other electrical equipment of any kind can be a material planning consideration.*

*13.3.9 The installation of many telecommunications systems is covered by permitted development rights, which may be subject to the local authority's prior approval<sup>3</sup> of details of siting and appearance. Where listed building consent is concerned, all telecommunications development is subject to normal statutory procedures. Where approval of details or planning permission is required the following should, in particular, be taken into account for telecommunications related planning applications:*

- the extent to which radio and telecommunications masts can be shared. The **Assembly** attaches considerable importance to keeping to a minimum the number of masts, and the sites for such installations where practicable. The sharing of masts will help to achieve this, as will the use of existing buildings to site new antennas; **and***
- that dishes blend with their backgrounds. Siting should, so far as practicable, minimise the impact on amenity and the external appearance of the building.*

*13.3.10 Planning permission or approval of details should not be refused on the basis of policies **that** take insufficient account of the growth and characteristics of modern telecommunications.]*

## **References:**

**1. Technical Advice Note (Wales) 19, 'Telecommunications', 1998**

**2. The Stewart Report can be found at [www.iegmp.org.uk](http://www.iegmp.org.uk)**

**3. Telecommunications Prior Approval Procedures as Applied to Mast Tower Development Code of Best Practice, DoE/WO, 1998**

## **14. HOUSING**

### **14.1 Objectives**

**14.1.1 The Assembly's objective for housing is that everyone in Wales should have the opportunity of a decent home in safe, healthy and sustainable communities<sup>1,2</sup>. There should be choice of housing, recognising the housing needs of all, including those in need of affordable or special housing in both urban and rural areas. Previously developed land (see definition at para. 3.3) should be used in preference to greenfield sites. New housing and residential environments should be well designed and make a significant contribution to promoting community regeneration and improving the quality of life.**



**14.1.2 To promote more sustainable residential environments, local planning authorities should promote:**

- **mixed tenure communities;**
- **development that is easily accessible by public transport;**
- **mixed use development;**
- **a greener residential environment;**
- **greater emphasis on quality and designing places for people;**
- **the most efficient use of land; and**
- **well designed living environments, where appropriate at increased densities.**

**14.1.3 In producing their Unitary Development Plans (UDPs), local planning authorities should devise a settlement strategy which comprises housing policies and a spatial pattern of housing development balancing social, economic and environmental needs. Settlement strategies will be informed by sustainability appraisal and should be fully justified and be compatible with other policies such as transport and other infrastructure provision. Local planning authorities should use a criteria based approach in developing their settlement strategies.**

## **14.2 Housing Land Availability<sup>3</sup>**

**14.2.1** Local planning authorities should ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the **unitary** development plan (**UDP**). This means that sites must be free, or readily freed, from planning, physical and ownership constraints, and capable of being developed economically, **creating and supporting sustainable communities** where people want to live, and that there must be sites suitable for the full range of housing types. Although much of this provision is likely to meet local needs, land allocated in **UDPs** as housing land should be available to all applicants. For land to be regarded as genuinely available it must be a Joint Housing Land Availability Study site. The **Assembly** will monitor **UDPs** and their implementation to ensure that sufficient housing land is brought forward for development in each unitary authority and that economic development and related job opportunities are not unreasonably constrained.

**14.2.2** Local planning authorities **should** address the scope and potential for rehabilitation, conversion, clearance and redevelopment when considering suitable sites for housing development. Maximising the use of appropriate vacant land within urban areas for housing development can assist regeneration in those areas, and at the same time relieve pressure for development in the countryside. In particular, local authorities should take account of the contribution reclaimable or reclaimed urban land and disused or underused buildings can make to the overall provision of land for housing.

**14.2.3** In identifying sites to be allocated for housing in **UDPs**, local planning authorities should follow a search sequence, starting with the re-use of previously developed land and buildings within urban areas, then urban extensions and then new development around settlements with good public transport links. They should seek only to identify sufficient land to meet their housing requirement.

**14.2.4** , Local planning authorities should consider the following criteria in deciding which sites

**to allocate for housing in their UDPs:**

- the availability of previously developed sites and empty or under-used buildings and their suitability for housing use;
- the location and accessibility of potential development sites to jobs, shops and services by modes other than the car, and the potential for improving such accessibility;
- the capacity of existing and potential infrastructure, including public transport, water and sewerage, other utilities and social infrastructure (such as schools and hospitals ) to absorb further development and the cost of adding further infrastructure;
- the ability to build communities to support new physical and social infrastructure and to provide sufficient demand to sustain appropriate local services and facilities; and
- the physical and environmental constraints on development of land, including, for example, the level of contamination, stability and flood risk, taking into account that such risk may increase as a result of climate change.

**14.2.5** In determining the order in which sites identified in accordance with paragraph 14.2.4 above should be allocated, the presumption will be that previously developed sites or buildings for re-use or conversion should be developed before greenfield sites. The exception to this principle will be where previously developed sites perform so poorly in relation to the criteria listed in paragraph 14.2.4 above as to preclude their use for housing (within the relevant plan period or phase) before a particular greenfield site. The level of performance required should be set out in the UDP.

**14.2.6** Local planning authorities and house-builders are encouraged to work together constructively to identify land in the most appropriate locations for development. Applicants for planning permission to develop new housing should be able to expect expeditious and sympathetic handling of planning applications for development on recycled land in urban areas where the land has been allocated for development in the UDP, the proposed development is well designed and well planned and it enhances the local environment.

**14.2.7** In planning the provision for new housing, local planning authorities must take account of the following issues:

- the UK Government's latest household projections;
- local housing needs assessments;
- the needs of the local and national economy;
- social considerations (including unmet need);
- the capacity of an area to accommodate more housing;
- the environmental implications; and
- the capacity of the existing or planned infrastructure.

In taking account of household projections local planning authorities should avoid giving them undue weight, particularly where the underlying assumptions (based on long term trends) may not be consistent with the emerging settlement strategy.

**14.2.8** Each local planning authority must justify its housing requirement and show how this

**requirement has been derived in terms of the issues listed above. Effective monitoring of these issues is essential in order to ensure that there is an adequate and continuing supply of land and buildings for housing and to enable its managed release.**

14.2.9 Wherever possible suitable housing sites should be identified in the development plan together with clear policy criteria against which applications for development of unallocated sites will be considered. New housing developments should be well integrated with the existing pattern of settlements; the expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Sensitive infilling of small gaps within small groups of houses, or minor extensions to groups may be acceptable, though much would depend on the character of the surroundings and the number of such groups in the area. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and retail development and with community facilities. However, residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use. Significant incremental expansion of housing in villages and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where the travel needs are unlikely to be well served by public transport.

14.2.10 In established areas insensitive infilling or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character and amenity. **This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing.** Policies covering the physical scale and design of new buildings, access, density, and off-street parking, and which take account of particular residential areas and of changing needs, may be needed. **Strong pressure for development may give rise to inappropriately high densities,** if not carefully controlled. **Planning authorities should ensure that plans include clear policies in relation to which applications will be considered. Sensitive design and good landscaping are particularly important if new buildings are to be fitted successfully into small vacant sites in established residential areas. "Tandem" development, consisting of one house immediately behind another and sharing the same access, may cause difficulties of access to the house at the back and disturbance and lack of privacy to the house in front.** Policies which seek to make maximum use of vacant urban land for housing will need to distinguish between sites which need to be retained for recreation, amenity or nature conservation purposes, and areas which are genuinely suitable for housing development. Where substantial new housing is to be permitted, plans should include policies making clear that provision for open space, which is reasonably related in scale and location to the development, will be expected.

14.2.11 Planning policies and decisions, including the provision of adequate land, have an important role to play in the preparation of local authorities' area housing strategies. Local authorities should adopt a corporate approach, involving housing and planning committees, in preparing and co-ordinating development plans and area housing strategies. In preparing strategies for land for housing it is important that the relevant Housing Strategy Operational Plan (HSOP) is considered. Where the local planning authority is a National Park Authority it should liaise closely with the housing departments and Committees of the local authorities of which the national park is part.

14.2.12 The contribution which residential mobile homes can make to overall housing provision will be

very limited, nevertheless they might on occasion have a part to play in providing low cost accommodation for small households.

14.2.13 Local authorities **must** indicate the regard they have had to meeting the accommodation needs of **gypsy families**. It is important that local planning authorities **have policies for the provision of gypsy sites** in their development plans.

### 14.3 Housing in the Countryside (see also section 15.8)

14.3.1 Development in the countryside should benefit the rural economy and maintain or enhance the environment. In order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside away from existing settlements recognised in development plans, or other areas allocated for development, must be strictly controlled. Many parts of the open countryside are interspersed with isolated groups of dwellings. Sensitive filling in of small gaps or minor extensions to such groups may be acceptable, but much depends on the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages. The fact that a single house on a particular site would be unobtrusive is not by itself a good argument in favour of permission; it could be repeated too often, to the overall detriment of the character of an area. Any isolated new houses require special justification, for example where they are shown to be essential to allow farm or forestry workers to live at or near their place of work.

14.3.2 Any proposals for new settlements should be promoted through, and fully justified in, the development plan. Plans should state clearly the contribution which developers will be expected to make towards provision of infrastructure, community facilities and affordable housing. New settlements on greenfield sites are unlikely to be appropriate in Wales, and should only be proposed where such development would offer significant environmental, social and economic advantages over the further expansion or regeneration of existing settlements.

### 14.4 Affordable Housing<sup>4</sup>

14.4.1 A community's need for affordable housing is a material planning consideration which may properly be taken into account in formulating development plan policies (**see also para. 15.7.2**). **It is also an essential element in contributing to community regeneration and strengthening social inclusion.** It may be desirable in planning terms that new housing development in both rural and urban areas should incorporate a reasonable mix and balance of house types and size to cater for a range of housing needs. Local authorities should ensure that planning policies for affordable housing are in line with the strategic planning objectives of the development plan. This may make it easier for the developer to provide affordable housing. Sites no longer likely to be needed for office or industrial purposes may be appropriate locations for affordable housing (as well as for general market housing). Higher densities should be encouraged on easily accessible sites, where appropriate, but this will need to be carefully designed to ensure a **high** quality environment. In particular, local planning authorities should adopt a flexible approach to car parking standards.

14.4.2 Where local planning authorities have demonstrated the need for affordable housing, by means

of a **recent local needs survey<sup>5</sup> or other reliable data sources, such as the housing registers of local authorities and registered social landlords**, they should include policies for affordable housing in their development plans for the areas where need has been identified. Targets for specific sites may be set if based on evidence of need and site suitability, but a uniform quota should not be imposed on development regardless of market or site conditions. Policies must indicate that an authority will seek to negotiate with developers where it is intended to include an element of affordable housing in proposed developments. Policies should also state what the authority would regard as affordable housing and what arrangements it would expect to ensure such housing remains reserved for those who need it.

**14.4.3 Rural Exception Sites** - In rural areas where there are unlikely to be sites of sufficient scale to trigger the above arrangements, special provision may be considered to help ensure the viability of the local community. Policies should make clear that the release of small housing sites, within or adjoining existing villages, for the provision of affordable housing to meet local needs, which would not otherwise be allocated in the development plan, is an exception to the policies for general housing provision and must be fully justified, setting out the type of need and the kind of development falling within the terms of the policy. Sites must meet all the other criteria against which a housing development would be judged.

## **References:**

- 1. 'Better Homes for People in Wales', National Assembly for Wales (to be published January 2001)**
- 2. 'Communities First: Second Consultation Paper', National Assembly for Wales (to be published January 2001)**
- 3. Technical Advice Note (Wales) 1, 'Joint Housing Land Availability Studies', 1997**
- 4. Technical Advice Note (Wales) 2, 'Planning and Affordable Housing', 1996**
- 5. 'Local Housing Needs Assessment: A Good Practice Guide', Welsh Office, 1999**

## **15. ECONOMIC DEVELOPMENT**

### **15.1 Industrial and Commercial Development**

**15.1.1 The Assembly is committed to building an advanced, competitive and more diverse economy with a dynamic small and medium enterprise sector<sup>1</sup> in a way that is compatible with the Assembly's environmental, social and transport objectives.**

**15.1.2 The designation of Objective 1 status for a large part of Wales illustrates the economic and social needs of those areas, which have not enjoyed the same economic progress experienced by areas in the south-east and north-east. The number and quality of jobs needs to be increased and economic inactivity reduced, especially in less prosperous areas.**

**15.1.3 The emphasis on developing the new economy of Wales to raise Welsh GDP per capita will have a strong spatial dimension. Recent developments in the economy of Wales highlight the need for employment strategies to be capable of accommodating rapid change. Key employment locations should be selected on sustainable development principles such as proximity to major centres of population, use of previously developed land (see definition at para. 3.3), good accessibility to the public transport and primary road network and good quality information communications technology.**

**15.1.4 Local authorities should aim to ensure that sufficient land is designated for employment which is readily capable of development and well served by infrastructure. Some local planning authorities have allocations of land for employment and other uses which cannot realistically be taken up in the quantities envisaged over the lifetime of the development plan. Local planning authorities should therefore review all their non-housing allocations when preparing or reviewing their development plan and consider whether some of this land might be better used for housing or mixed use developments.**

**15.1.5 The principle of mixed use development should be promoted in, and adjoining, existing settlements, where appropriate. Local planning authorities should seek to accommodate and encourage the development of more flexible working practices within the local economy. Policies and supplementary planning guidance should support initiatives such as working from home and mixed use developments, including flexible dwellings and flexible commercial premises, where these may be appropriate.**

**15.1.6 Local authorities should promote regeneration and re-use of reclaimed land and existing buildings. On certain urban sites and previously developed sites an effective means of achieving this will be through the development of urban villages or strengthening of existing ones. Urban villages should foster integrated communities by promoting mixed use development, comprising appropriate combinations of housing (including affordable housing); employment; retailing; education; leisure and recreation. They should be promoted through, and fully justified in, the development plan.**

**15.1.7 The Welsh Development Agency (WDA) may be able to assist both private developers and local authorities in the process of assembling, preparing and/or delivering such sites.**

## **References:**

**1. BetterWales.com, National Assembly for Wales, April 2000.**

## **15.2 Unitary Development Plans**

**15.2.1 Unitary Development Plans (UDPs) should make provision for employment through policy identifying a range and choice of sites to meet differing needs having regard to where the private sector want to invest and which meet, or have the potential to meet, the Assembly's planning policies for transport, or by setting out criteria against which 'windfall' opportunities will be assessed. When allocating sites in UDPs priority should be given to identifying key sites**

which should not be used for other uses which could be located elsewhere and to development of sites and premises on brownfield (see definition at para. 3.3) in preference to greenfield land.

**15.2.2 Where key sites are included, UDPs should make clear the criteria used to categorise them, making explicit the reasons why they should be differentiated from other sites.**

**15.2.3 The development of** under-used and vacant land and premises, especially those adjacent to existing or disused, but safeguarded, railway lines or docks, should be promoted by local planning authorities indicating the industrial and commercial uses that would be acceptable.

**15.2.4 In designating key sites UDPs may specify the range of uses which are appropriate. Key sites can provide a focus for investment but should not preclude other opportunities presenting themselves or stifle the review of local economic development policy.**

**15.2.5 Local authorities' economic development strategies and other relevant plans and strategies, such as the Assembly's economic development policies<sup>1,2</sup>, should be taken into account in the preparation of the UDP.**

**15.2.6 UDPs** should provide for development to be accommodated within or adjoining the main urban areas and established local centres in rural areas. **UDPs should recognise and encourage the potential of smaller towns to provide employment for their own population and for the surrounding rural areas.**

**15.2.7** The fact that a plan has been subject to environmental appraisal does not take away the requirement for environmental **impact** assessment of individual development proposals when they are required by legislation or **Assembly policy**.

**15.2.8** Sites proposed for industrial development should not be used for **other purposes such as retail or leisure or housing** development that could be located elsewhere. Other sites in urban areas with extant, but unimplemented, permissions for commercial or retailing uses may be suitable for housing (or other) development that could help bring vitality to urban centres.

**15.2.9** Plans should include policies for industrial and other employment-generating and wealth-creating development; particular regard should be given to the needs of small businesses. In drawing up policies and in considering proposals for development planning authorities should take into account the possibility that certain kinds of businesses may be especially important in providing opportunities for social groups disadvantaged within the labour market; whether this is the case can only be determined by analysis of the circumstances in particular places at particular times, and will need to be kept under review. Where policies aim to channel particular types of business development into particular locations clear justification is required. Technology and the requirements of industry and commerce are changing rapidly; plans should reflect this.

**15.2.10 Development plans should contain appropriate policies in support of cluster development and growth, including ones to identify networks of innovative cluster areas, making clear the criteria used to categorise them, and the transport and other policies relating to the creation of the communication infrastructure to support such networks.**

15.2.11 Plans **must** take account of the location of hazardous installations within, or in the vicinity of, the plan area and the need for sites for new, or for the relocation of existing, hazardous development **in accordance with Planning (Control of Major Accident Hazards) Regulations 1999<sup>3</sup>**. Plans may indicate general locations where further hazardous development may be acceptable, **subject to adequate design and acceptable risk assessment**, and set out criteria to control hazardous development and other development in the vicinity. Specific locations should be proposed for those necessary industries which are detrimental to amenity and may be a source of pollution.

15.2.12 Many businesses can be located in and around small settlements, and in residential areas in larger settlements, without causing unacceptable disturbance. **This can provide employment opportunities for those who cannot readily access major employment sites and can assist in redressing social exclusion.** In primarily residential areas, policies should not unreasonably seek to restrict commercial and industrial activities of an appropriate scale, particularly in existing buildings, provided there is not likely to be an adverse effect on residential amenity. **Particular care should be taken to safeguard residential amenity, especially where there is potential for noise and/or traffic disturbance. Conditions may be used to control, for example, times of operation or to prevent weekend working in order to protect amenity.** Small scale community owned enterprises often need to be located close to residential areas if they are to succeed in providing new opportunities for socially excluded groups.

**15.2.13 UDPs may identify criteria for selection of suitable sites and for change of use of existing sites and premises for mixed use developments.**

15.2.14 **UDPs** will not be effective unless they are realistic about resource availability and provide developers and others with scope to make choices to secure the efficient and effective use of those resources. **UDPs** and development control decisions should take account of European, national and local economic and development policies. **UDPs** should include a broad indication of the assumptions made about the resources likely to be available for effecting **plan** policies and proposals.

**15.2.15 All local planning authorities must consider the following when producing their economic development planning policies and determining planning applications relating to industrial and commercial development:**

- **the impact of the development on the environment;**
- accessibility by a choice of means of travel;
- the effect on local amenity, for example, traffic generation, noise, smell, safety, health impacts, emissions;
- proximity to residential area, which may or may not be a problem depending on the nature and scale of the industrial or commercial development in question;
- appropriateness of intensification of industrial / commercial use;



- compatibility with existing industrial and commercial activities;
- the possible need for, and scale of, **transport infrastructure changes required to enable the development to occur;**
- **a demonstration why UDP allocations are inadequate for the uses proposed and there are no alternatives;**
- **sites attractive to developers and investors.**

15.2.16 Occupancy conditions, defining the categories of people or firms who may occupy the premises, should be imposed only when this can be justified on planning grounds and where the alternative would normally be to refuse permission. In most cases it would not be appropriate to impose such conditions on buildings of less than 300 square metres of office floor-space (or 500 square metres of industrial floor-space). Occupancy conditions may not be imposed which provide for a system of vetting by the local planning authority or the use of a vague test such as needing to be located in the area.

15.2.17 Unless intensification amounts to a material change in the character of use, it cannot be controlled if unconditional planning permission has been granted. Planning authorities should, therefore, consider the use of planning conditions or planning obligations to safeguard local amenity.

15.2.18 A flexible attitude is required with respect to change of use to enable suitable re-use or new use to be instituted in under-used space where this might contribute to the preservation of the building or enhancement of the townscape or landscape.

## References:

1. **'Pathway to Prosperity – A new Economic Agenda for Wales', National Assembly for Wales, 1999**
2. **'National Economic Development Strategy', National Assembly for Wales (to be published in 2001)**
3. **SI 1999 no. 743.**

## 15.3 Retailing & Town Centres

15.3.1 The communities of Wales, in both urban and rural areas, require accessible, efficient, competitive and innovative shopping provision. Wherever possible this provision should be located in proximity to other commercial businesses, facilities for leisure, community facilities and employment. Town, district, local and village centres are the best locations for such provision at an appropriate scale. Such co-location of shopping and other services in existing centres, with enhancement of access by walking, cycling and public transport, to provide the opportunity to use means of transport other than the car, will provide the greatest benefit to communities. It should sustain and enhance the vitality, attractiveness and viability of those centres as well as contributing to a reduction of travel demand.

15.3.2 Vitality is reflected in how busy a centre is at different times and in different parts, attractiveness in the facilities and character which draw in trade, whilst viability refers to the ability of the centre to attract investment, not only to maintain the fabric, but also to allow for improvement and adaptation to changing needs<sup>1</sup>.

**15.3.3 Local planning authorities should develop through their unitary development plans (UDPs) a clear strategy and policies for retail development, and for the future of town, district, local and village centres in their area. These plans should identify the existing hierarchy of centres, including those which fulfil specialist roles. They should identify changing pressures and opportunities and devise appropriate responses to them. In some situations it may be necessary to manage the decline in relative importance of a centre as other centres expand. Policies should be developed, in consultation with the private sector, which revitalise and increase the attractiveness of existing centres, paying particular attention to the character of historic towns and conservation areas. Although retailing should continue to underpin town, district, local and village centres it is only one of the factors which contribute towards their well-being. Policies should encourage a diversity of uses in centres. Mixed use developments, for example, combining retailing with entertainment, restaurants and housing should be encouraged to promote lively centres as well as reducing the need to travel to visit a range of facilities. Leisure uses can benefit town and district centres and, with adequate attention to safeguarding amenities, can contribute to a successful evening economy. The restoration of redundant buildings which are worthy of retention can make them suitable for re-use for a variety of retailing, commercial, entertainment, cultural or residential purposes.**

**15.3.4 Policies and supplementary planning guidance should support management of town centres and, where appropriate, of smaller centres. Such management involving enhancement and promotion can be an important factor in achieving vitality, attractiveness and viability. Partnership between the local authorities and the private sector is essential in order that such management is successful<sup>2</sup>.**

**15.3.5 Good access to and convenient movement within town centres is essential. UDPs should, in particular, encourage the provision of good access to town and other centres for public transport, including bus priority measures and well located bus stops and shelters. They should also encourage easy access to and within centres, and appropriate facilities, for people with limited mobility. Access by car and short-term parking can also help centres compete with existing out of centre locations but should be managed to minimise congestion, pollution and parking problems which would otherwise reduce their convenience, attractiveness or competitiveness.**

**15.3.6 UDPs may distinguish between primary and secondary frontages in town centres and consider their relative importance to the character of the centre. Primary frontages are characterised by a high proportion of retail uses, while secondary frontages are areas of mixed commercial development including, restaurants, banks and other financial institutions. Banks and other financial institutions provide important services and local planning authorities should encourage their retention in town centres. This may include the upgrading of premises and the installation of new customer services. Such uses should not be allowed to dominate primary shopping areas in a way that can undermine the retail function.**

**15.3.7 Local planning authorities should also consider through their UDPs whether new sites should be identified in town, district, local or village centres for retail development, leisure development or other uses best located in centres. Uses which need to be accessible to a large number of people, including retailing, major leisure uses (such as theatres, multi-screen cinemas, bingo halls and bowling alleys), offices of central and local government, commercial offices, hospitals and tertiary education facilities are preferably to be located in town centres. Smaller scale retail provision, including appropriately sized supermarkets, leisure facilities, and other facilities such as local health centres, branch libraries, area offices of the local authority, primary schools should preferably be located in district, local and village centres.**

**15.3.8 In deciding whether to identify sites for retail and leisure developments local planning authorities should in the first instance consider whether there is a need for additional provision for these uses. Such need may be quantitative to address a provable unmet demand for the provision concerned. Need may also be qualitative where it can be shown that new provision will contribute to meeting the policies set out in this guidance. Thus where the current provision appears to be adequate in quantity the need for further allocations could be justified if it could be located where it is highly accessible by walking, cycling or public transport, where it would contribute to a substantial reduction in car journeys, where it contributes to the co-location of facilities in existing town, district, local or village centres or significantly contributes to the vitality, attractiveness and viability of such a centre.**

**15.3.9 If there is no need for further development for retail or leisure uses, there will be no need to identify additional sites. If a need is identified, local planning authorities should then adopt a sequential approach to selecting sites for such new development. The sequential approach should also be used when allocating sites for the other uses best located in existing centres referred to in paragraph 15.3.7. Adopting a sequential approach means that first preference should be for town centre locations, where suitable sites or buildings suitable for conversion are available, followed by edge-of-centre sites, district and local centres and only then out-of-centre sites in locations that are accessible by a choice of means of transport. Local planning authorities should take a positive approach, in partnership with the private sector, in identifying additional sites which accord with this approach. Where sites are allocated for different types of retail developments they should take account of such factors as floorspace, quality, convenience, attractiveness and traffic, but should not prescribe rigid floorspace limits, whether for town centres or other development, that would unreasonably inhibit the retail industry from responding to changing demand and opportunity. As proposals for development may come forward after the UDP has been adopted, and may be brought forward irrespective of whether the plan provides allocations, plans should also include criteria based policies in line with this guidance to guide consideration of such proposals.**

**15.3.10 Development proposals for retailing, leisure and other uses best located in town centres, including extensions to existing developments, will be assessed in relation to the strategy of the UDP and to the sequential approach to site selection, as well as: their impact on existing centres; their accessibility by a choice of means of travel; and their impact on overall travel patterns. Developers should be able to demonstrate that all potential town centre options, and then edge of centre options, have been thoroughly assessed, using the sequential approach, before out-of-centre sites are considered for key town centre uses. The onus of**

proof that more central sites have been thoroughly assessed rests with the developer and, in the case of appeal the Assembly will need to be convinced that this has been undertaken. This approach also requires flexibility and realism from local planning authorities, developers and retailers. Developers and retailers will need to be more flexible about the format, design and scale of proposed development, and the amount of car parking, tailoring these to fit the local circumstances. Rather than propose developments with a mixture of large scale retail and/or leisure uses and a large amount of car parking which can only be accommodated at single site out-of-centre or even out-of-town locations, developers are expected to demonstrate why they could not develop elements of the larger scheme on a site, or a number of sites, in more central locations with less car parking.

**15.3.11** In assessing the impact of a major new retail development proposal on existing centres, local planning authorities should consider not only the incremental effects of that proposal but the likely cumulative effects of recently completed developments together with outstanding planning permissions and development plan commitments in the catchment areas of those centres.

**15.3.12** Some types of retailing such as stores selling bulky goods and requiring large showrooms may not be able to find suitable sites in town centres. Such stores should be located at edge of centre sites or, where such sites are not available, at locations accessible to a choice of means of transport. Retail parks, where such stores are grouped, should only be considered where accessible to public transport as well as private transport. The need for retail parks should be tested in accordance with the principles in paragraph 15.3.8 above. The scale, type and location of out-of centre retail developments should not be such as to be likely to undermine the vitality, attractiveness and viability of those town centres that would otherwise serve the community well, and should not be allowed if they would be likely to put town centre strategies at risk. **For example the commitment to accessible shopping and sustaining existing centres means that local planning authorities should seek to retain an adequate level of provision for food shopping together with post offices and pharmacies in existing town, district and local centres and in villages.** Out of centre food supermarkets should therefore not be allowed if their provision is likely to lead to the loss of general food retailing in the centre of smaller towns. **Where the inclusion of post offices and pharmacies in out-of-centre retail developments would be likely to lead to the loss of existing provision they should be discouraged by imposing appropriate conditions.**

**15.3.13** Single retail outlets at factories selling their own products are likely to be suitable where they do not harm the vitality, attractiveness or viability of a town centre and are acceptable in regard to traffic generation, access and parking. Free-standing developments including a number of factory outlets should be assessed on the same basis as other retail proposals. The central issue is not whether goods are sold at a discount, but whether such retail developments would divert trade in comparison goods from existing town centres. Such centres may draw customers from a wide catchment area, predominantly by car, and as a result are unlikely to be consistent with the criteria in this guidance unless those issues can be satisfactorily resolved. Factory outlet centres may play a positive role in revitalising declining shopping centres where there is presently unused capacity or suitable opportunities for conversion. Warehouse clubs share many of the characteristics of very large retail outlets, and planning applications for them should be treated as if they were retail businesses.

15.3.14 Out-of-centre retail developments may seek over time to **change the range of goods they sell or the nature of the sales area, for example by subdivision to a mix of smaller units, or to a single 'department' store.** If such a change could allow a development that the planning authority would have otherwise refused, planning conditions, for example, to prevent the development from being subdivided into a large number of smaller shops and/or to limit the range of goods sold, should be used. **Applications to remove such conditions should be considered in accordance with this guidance.**

15.3.15 New regional shopping centres, with more than 50,000 square metres of gross floor space, can have a substantial impact over a wide area and severely harm the nearest major centres. Although there may be circumstances where they could fulfil an important retail need, full account needs to be taken of all likely impacts and it is unlikely that opportunities exist for such a centre in Wales at present.

15.3.16 When determining applications for renewal of planning permission for retail, leisure, and other uses best located in existing town centres, local planning authorities should determine the application in accord with the up-to-date development plan and with regard to this guidance including the sequential approach. This may mean that permissions are not renewed where the proposals do not accord with current policy. Applications for non-retail use of allocated retail sites **which conform to this guidance** should not normally be permitted. However, **proposals to change the use of existing retail allocations or uses which do not conform with this guidance, such as being located where access by walking, cycling and public transport is poor, to other more acceptable land uses at those locations, should be supported.** Some sites in urban areas with extant, but unimplemented, permissions for commercial or retailing uses may be suitable for housing development that could help bring vitality to urban centres. Where vacant offices and retail premises in existing shopping centres seem unlikely to be used again for these purposes, authorities should encourage conversion to other appropriate uses. Planning applications for retail development should not normally be permitted on land designated for other uses. This advice applies especially to land allocated for industry, employment and housing, where retail development can be shown to have the effect of limiting the range and quality of sites that would be available for such uses.

15.3.17 Amusement centres are most appropriately sited in secondary shopping areas, or in areas of mixed commercial development. They are unlikely to be acceptable in primary shopping areas, close to housing, or near schools, churches, hospitals and hotels, nor in conservation areas or other places of special architectural or historic character. In resort towns, seafront locations may be preferred. Account will always need to be taken of the amount of noise already generated in the area. It will not normally be reasonable to expect amusement centres to be quieter than their neighbours.

15.3.18 Village shops can play a vital economic and social role in rural areas. The loss of village shops can be damaging to a local community. This should be taken into account when considering applications for a change of use of existing shops into dwellings or other uses. Local planning authorities should adopt a positive approach to applications for conversion of suitable village properties to shops and for extensions to village shops designed to improve their viability. The lack of public transport in rural areas should not preclude small-scale retail or service developments where this will serve local needs. Shops ancillary to other uses, such as farm shops, that will help meet the demand for fresh produce and shops linked to petrol stations can also serve a useful role in rural areas

by providing new sources of jobs and services. In assessing such proposals, local planning authorities should take account of:

- the potential impact on nearby village shops;
- the likely impact of traffic generated and access and parking arrangements;
- the desirability of providing a service throughout the year.

## References:

1. 'Vital and Viable Town Centres: Meeting the Challenge' Urban and Economic Development Group for DoE, HMSO 1994

2. Technical Advice Note (Wales) 4 – 'Retailing and Town Centres', 1996

## 15.4 Economic Development in Rural Areas

15.4.1 The **Assembly**'s economic objectives for rural areas are to:

- enhance the economic success of the countryside, helping businesses to maximise their competitiveness;
- support initiative and avoid placing unnecessary burdens on enterprise;
- encourage further economic diversity by helping to stimulate new and varied forms of wealth creation and employment, especially in areas which have participated less fully in economic success;
- promote the exploitation of new technologies which can provide new opportunities; and
- ensure that development **is sustainable and that it** respects, and where possible enhances, the environment in its location, scale and design.

**15.4.2 Sustainable rural communities need new employment opportunities but new developments must be in keeping with the distinctiveness of each community in terms of its social, economic and environmental characteristics. Rural Wales is characterised by its diversity – in terms of its habitats, landscapes and culture. Local planning authorities should maintain this diversity by encouraging sustainable growth of the rural economy.**

15.4.3 The planning system helps to integrate the development necessary to sustain the rural economy with the protection of the countryside. Development in the countryside should benefit the rural economy and maintain **and, where possible**, enhance the environment. New developments **should be located** in areas in and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, but new building in the open countryside away from existing settlements or areas allocated for development in development plans **must continue to** be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate **scale and** design.

**15.4.4 Local planning authorities must facilitate diversification of the rural economy from traditional rural industries into new enterprises<sup>1,2,3</sup>. Many commercial and light manufacturing activities (for example the processing of agricultural products<sup>4,5</sup>) can be located in rural areas without causing unacceptable disturbance<sup>6</sup>. Small-scale enterprises have a vital role in promoting healthy economic activity in rural areas, which can contribute to both local and national competitiveness. Businesses in rural areas are essential to sustain and improve rural communities, but developments which only offer short-term economic gain will rarely be appropriate. Development should respond to social and economic needs, make wise use of non-renewable resources and conserve or enhance environmental quality. While some employment can be created by the re-use of existing buildings, new development will be required in many areas. New patterns of development in rural areas should be sensitively related to existing settlement patterns and should take account of the natural and historic resources of the area. New development sites are likely to be small and should generally be located in and adjoining sustainable settlements where public transport provision is established. The absence of allocated employment sites should not prevent authorities from accommodating appropriate small-scale rural enterprise in or adjoining small rural settlements.**

**15.4.5 Local planning authorities should adopt a positive approach to development associated with farm diversification in rural areas<sup>7</sup>. While initial consideration should be given to adapting existing farm buildings, the provision of a sensitively designed new building within existing farm complexes may be appropriate where a conversion opportunity does not exist. Before allowing such development local planning authorities must be satisfied that adverse effects on the natural heritage and highways can be controlled by, for example, suitable conditions or, where appropriate, agreements.**

## **15.5 Development Plans and Economic Development in Rural Areas**

**15.5.1 Unitary Development Plan (UDP) policies must ensure that new economic development in rural areas embodies the principles of sustainable development, matches local infrastructure capacity, maintains or enhances the environment and the character of the area, is sensitively related to other existing development, makes prudent use of natural resources and, where possible, uses previously developed land. The scale and setting of new development must be compatible with its environment and existing infrastructure.**

**15.5.2 Local planning authorities must consider the following when producing their economic development policies for rural areas:**

- the sustainability of options to meet economic development needs;
- the impact of the development on the environment (in terms of its traffic generation, scale, design, use of materials and natural resources); and
- how significant environmental losses can be avoided, mitigated or compensated.

**15.5.3 Part 1 of the UDP should:**

- set out an integrated rural development strategy for new development based on

sustainable development principles. The strategy must reflect the economic, social and environmental considerations of the area, be tailored to maintain the particular characteristics of the area and should address the particular problems associated with them<sup>8</sup>; and

- encourage economic development and diversification which respects the environment.

#### 15.5.4 Part 2 of the UDP should:

- include policies to maintain or develop sustainable communities, encourage economic development and maintain and, where possible, enhance the environment;
- contain policies setting out clear criteria against which new economic development proposals will be assessed. These should not simply list the types of development which might be appropriate<sup>8</sup> but should focus on the impact of different types of development (particularly cumulative impact) and should also set standards of design and scale. The justification for any conditions or agreements should be included;
- include policies on the scope for new economic development in and adjoining settlements, and identify suitable sites;
- include policies encouraging the re-use of land and buildings, especially in and adjoining sustainable settlements;
- include policies encouraging farm diversification and new rural development opportunities;
- provide criteria against which new buildings within farm complexes must be judged; and
- include policies to steer bad neighbour development away from settlements.

In addition, local planning authorities should consider producing Supplementary Planning Guidance on how farm diversification proposals are addressed in their area and the criteria which planning applications for farm diversification would be expected to meet<sup>8</sup>.

### 15.6 Agricultural Development

15.6.1 An efficient and flexible agricultural industry remains essential. Local planning authorities should adopt a **constructive** approach towards agricultural development proposals, **especially those** which are designed, or are necessary, to achieve compliance with new environmental, hygiene or welfare legislation<sup>6</sup>.

15.6.2 Agriculture and forestry permitted development rights<sup>9</sup> are granted to meet farming and forestry needs and not for purposes of diversification. They should not be abused, for example, to circumvent normal planning policies on new building in the open countryside. Local planning authorities should check the lawfulness of developments to be carried out under permitted development rights. New farm buildings must be sited on land which is in use for agriculture for the purposes of a trade or business, and must be reasonably necessary for the purposes of agriculture within an agricultural unit which is at least 5 hectares in area, as well as meeting other conditions, governing the exercise of permitted development rights.

### 15.7 Re-use and Adaptation of Rural Buildings (see also section 6.1)



15.7.1 The re-use and adaptation of existing rural buildings has an important role in meeting the needs of rural areas for commercial and industrial development, as well as for tourism, sport and recreation. Local planning authorities should adopt a positive approach to the conversion of rural buildings, **especially those buildings located within or adjoining farm building complexes**, for business re-use provided that:

- they are suitable for the specific reuse;
- conversion does not lead to dispersal of activity on such a scale as to prejudice town and village vitality;
- their form, bulk and general design are in keeping with their surroundings (see Section 6.1 'Design');
- imposing conditions on a planning permission overcomes any planning objections, for example on environmental or traffic grounds, which would otherwise outweigh the advantages of re-use; and
- if the buildings are in the open countryside, they are capable of conversion without major or complete reconstruction.

15.7.2 Residential conversion of buildings which have ceased to be used for industrial or commercial purposes, including agriculture, can have a minimal economic impact, and may be detrimental to the fabric and character of historic buildings, while business conversions generally have a more positive economic impact on local employment. Local planning authorities should consider the needs of their areas for business and residential conversions. Especially in areas where the creation of local employment is a priority, they may include policies in their development plan which do not allow residential re-use unless either:

- the applicant has made every reasonable attempt to secure suitable business re-use, and the application is supported by a statement of the efforts which have been made; or
- residential conversion is a subordinate part of a scheme for business re-use; or
- **the resulting housing will contribute to an identified need for affordable housing for local need (see also para. 14.4.1).**

**These considerations are in addition to the criteria in paragraph 15.7.1. If the existing building is unsuitable for conversion without extensive alteration, rebuilding or extension, or if the creation of a residential curtilage would have a harmful effect on the character of the countryside, similar control to that over new house building in the open countryside (see para. 14.3.1) will apply.**

## **15.8 Agricultural and Forestry Dwellings (see also section 14.3)**

15.8.1 New house building and other new development in the open countryside, away from established settlements, should be strictly controlled. Isolated new houses in the open countryside require special justification, for example, where they are essential to enable farm or forestry workers to live at or close to their place of work. Agricultural needs cannot justify the provision of new dwellings as retirement homes for farmers.

15.8.2 The following, in particular, should be considered when determining planning applications for agricultural and forestry dwellings:

- a functional test to establish whether, for the proper functioning of the enterprise, one or more workers needs to be readily available at most times, in terms of both its current and likely future requirements;
- new permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. A financial test is necessary for this purpose, and to provide evidence of the size of dwelling which the unit can sustain.

15.8.3 It is important to establish that stated intentions to engage in agriculture or forestry are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period. If it is considered that a new dwelling will be essential to support a new farming activity, whether on a newly-created agricultural unit or an established one but the case is not completely proven, it should normally for the first three years be provided by a caravan, or a wooden structure which can be easily dismantled, or other temporary accommodation. Temporary agricultural dwellings should satisfy normal planning requirements, for example on siting and access, and will have to be removed at the end of the period for which the permission was granted. Local planning authorities should not grant temporary planning permissions in locations where they would not permit a permanent dwelling.

15.8.4 Where the need to provide accommodation to enable farm or forestry workers to live at or near their place of work has been accepted as justifying isolated residential development in the open countryside, it will be necessary to ensure that the dwellings are kept available for this need. For this reason planning permission should be granted subject to an occupancy condition.

## **References:**

- **‘Planning for Rural Diversification: A Good Practice Guide’, DoE, 1995**
- **‘Innovating to Succeed’, Institute of Welsh Affairs, 2000**
- **‘A Food Strategy for Wales’, Welsh Office, 1996.**
- **‘A guide for the Food Industry in Wales’ Welsh Office, 1997.**
- **A guide for the Food Industry in Wales Addendum’ Welsh Office, 1998.**
- **Technical Advice Note (Wales) 6, ‘Agricultural and Rural Development’, 2000.**
- **Farm diversification is defined here as economic diversification on active farms which is subject to planning control.**
- **‘Farm Diversification and the Planning System’, National Assembly for Wales (final research report to be published January 2001).**
- **GPDO, 1995, Schedule 2, Parts 6 and 7.**

## **16. CONTROL OF OUTDOOR ADVERTISEMENTS**

16.1 The main purpose of the advertisement control system is to help everyone involved in the display of outdoor advertising to contribute positively to the appearance of an attractive and cared-for environment in cities, towns and the countryside. The statutory provisions enable local planning

authorities to control the display of advertisements when it is justified, in the interests of amenity and public safety. The control regime does not enable the authority to regulate the subject-matter of any advertisement. The vital consideration, in assessing an advertisement's impact on public safety, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others safety.

16.2 All outdoor advertisements are intended to communicate information, or messages, to passers-by. The decisive policy consideration in considering an advertisement's impact on amenity is whether it will adversely affect the appearance of the building, or of the immediate neighbourhood, where it is to be displayed. In deciding advertisement applications, local planning authorities should therefore consider the local characteristics of the neighbourhood, including its scenic, historic, architectural or cultural features. Because assessment of these factors may appear to involve some subjective judgement, authorities should be consistent in their assessment of visual impact in similar or comparable neighbourhoods or surroundings. The reasons for an authority's decision to refuse consent for the display of an advertisement should always be carefully explained to the applicant.

16.3 No advertisement sign should be displayed without the consent of the landowner, and it is an offence to erect or paint signs on any part of a public highway. Unless applicants are able to demonstrate prior highway authority authorisation for the proposed sign(s), then applications to display advertisements on (or overhanging) highway land should be refused automatically.

16.4 Revised guidance on the criteria for brown and white tourist signing was issued in 1996. Applicants requiring highway signs, for sites that meet these criteria, should apply to the appropriate highway authority.

## 17. TOURISM, SPORT AND RECREATION

### 17.1 Tourism

17.1.1 The **Assembly** is committed to the encouragement of **sustainable** tourism in Wales, maximising its economic and employment benefits, promoting **tourism in all seasons** and encouraging **its** development in non-traditional destinations, while safeguarding the environment, and the interests of local communities<sup>1</sup>.

17.1.2 Development plans should seek to enable facilities and accommodation for tourism to be provided and improved, while tackling any adverse effects in a positive, constructive way. They should consider the scale and distribution of tourist activity in the area and the implications of likely future changes. They should indicate how future tourist needs may be accommodated in ways which moderate environmental impact, protect landscape, **the coast, historic buildings** and areas of special interest, and outline ways in which tourism can contribute to economic development, conservation, **rural diversification, urban regeneration and the reduction of social exclusion**. In addition to supporting the continued success of existing tourist areas, plans should encourage appropriate tourist related commercial development in new destinations including existing urban areas, and in other locations well served by **sustainable means of travel, particularly** public transport. In rural areas in particular, the scale and nature of such development must be sensitive to the local

environment.

## **17.2 Sport and Recreation**

### **17.2.1 Objectives**

**17.2.1.1** The **Assembly** supports the development of sport and recreation which is important for **children and adults** and for the social and economic life of Wales. **The Assembly's main planning objectives for sport and recreation are to promote:**

- **a more sustainable pattern of development by creating and maintaining networks of recreational facilities and open spaces in places well served by sustainable means of travel, in particular within our urban areas;**
- **social inclusion, health and well-being by ensuring that everyone, including the elderly and those with disabilities, has easy access to good quality, well-designed sport and recreation facilities and open space; and**
- **the provision of innovative, user-friendly, accessible sport and recreation facilities to make our urban areas, particularly town centres, more attractive places, where people will choose to live and to visit.**

### **17.2.2 Planning Policy**

**17.2.2.1** The planning system should ensure that adequate land and water resources are allocated both for organised sport and for recreation, taking full account of the need for recreational space and current levels of provision and deficiencies, and the impact on the location. The facilities provided should be well designed and sensitive to the needs of users, safe and accessible by a variety of means of transport including walking and cycling<sup>2</sup>.

**17.2.2.2** Open spaces with significant recreational or amenity value should be protected from development, particularly in urban areas. All playing fields whether owned by public, private or voluntary organisations, should be protected except where:

- facilities can best be retained and enhanced through the redevelopment of a small part of the site;
- alternative provision of equivalent community benefit is made available; or
- there is an excess of such provision in the area.

### **17.2.3 Unitary Development Plans**

17.2.3.1 **Unitary development plans (UDPs)** should justify the amount and location of any new provision **for sport and recreation, including major initiatives**, against the competing pressures for the use of land. Local planning authorities should consider including in their plans their own standards of provision for sport and recreation based on their assessment of need. This involves an assessment of current provision in relation to standards, the identification of needs and the preparation of development plan policies which address these needs. **UDPs should consider ways in which possible conflicts between different sport and recreation activities can be avoided or resolved.**

17.2.3.2 In urban areas where land supply is limited, sports facilities which are capable of intensive use will reduce pressure on urban open space. Consideration should be given in appropriate locations particularly in rural areas, to the dual use of school facilities, the provision of village halls and appropriate conversions of farm and other buildings. **The diversification of farm enterprises into appropriate sport and recreation services should be encouraged, but care is needed to reconcile the impact of this type of activity with those of safeguarding the character and appearance of the countryside, particularly its landscape, biodiversity and local amenity.**

17.2.3.3 **UDPs** may also include policies for the recreational use of redundant railway lines or space alongside canals and rivers, provided in the latter case care is taken to ensure there will be no detriment to flood defences. Sometimes such routes may serve the dual purpose of providing linear parks in urban areas. Routes shared with pedestrians, **cyclists** and sometimes with horse-riders, should be considered where space allows. Provision of cycle routes and cycle priority measures should be encouraged in new development. As with pedestrian routes, care needs to be taken to ensure that cycle routes are not isolated from all other activity.

## References:

1. Technical Advice Note (Wales) 13 'Tourism', 1997

2. Technical Advice Note (Wales) 16 'Sport and Recreation', 1998

## 18. ENERGY

18.1 The **UK** Government's general aims are to ensure **that the energy needs of society, in terms of competitive costs, reliability and security of supplies**, are satisfied, consistent with protecting the local and global environment; that any environmental damage or loss of amenity caused by energy supply or ancillary activities is minimised; and that unnecessary sterilisation of energy resources is prevented. Its policy is to stimulate the exploitation and development of renewable energy sources wherever they have prospects of being economically attractive and environmentally acceptable.

18.2 Renewable energy generation from sources such as wind, waste, water **(including hydro, tidal, waves and currents)**, sun, **energy crops** and wood should be addressed in development plans. Development plan policies should recognise the need for renewable energy and consider the contribution **they can make towards the delivery of renewable energy and the amelioration of climate change targets, in the context of a Wales-wide assessment<sup>1</sup> of capacity and potential for renewable energy, and criteria relating to the scale, nature and location of renewable energy**

schemes<sup>2</sup>.

- A. The reasoned justification **of development plan policies** should indicate what account has been taken of renewable energy, and the potential for exploiting it, in formulating the general policies and proposals. **Where possible and practical**, the general location of any individual project likely to have a significant effect on the area should be included, while policies for developing renewable energy sources should identify broad locations, or specific sites, suitable for the various types of installations.
- A. **In determining planning applications for renewable energy schemes, local authorities should consider the impact of renewable energy projects, including associated infrastructure, on the local environment in terms of criteria relating to the scale and nature of the proposal and its contribution to reducing emissions of greenhouse gases and other pollutants.**

#### References:

1. 'Study into Renewable Resources in Wales', Sustainable Energy Limited, (Draft – 2000)
2. Technical Advice Note (Wales) 8, 'Renewable Energy', 1996.

## 19. WASTE TREATMENT AND DISPOSAL

**19.1 Local planning authorities must have regard to the national waste strategy<sup>1</sup> in formulating their unitary development plans (UDPs). Local planning authorities should ensure that policies in UDPs will facilitate the delivery of the waste management objectives in the waste strategy for Wales and meet the obligations required by European legislation.**

**19.2 The UK Government's general policy towards waste management is based on a hierarchy of: reduction; re-use and recovery (including material recycling, energy recovery and composting); and safe disposal. A sustainable approach to waste management will require greater emphasis on reduction, re-use and recovery and less reliance on disposal without recovery, and the consideration of the Best Practical Environmental Option (BPEO) which is one of the key mechanisms used to guide waste management options. Research is being undertaken to develop BPEO further to incorporate social and economic impacts leading to a methodology for determining the most sustainable waste management option. Further advice will be issued.<sup>2</sup>**

**19.3 Waste should be disposed of (or otherwise managed) as close to the point of its generation as possible. This is the proximity principle. Planning authorities are obliged by the EC Framework Directive on waste<sup>2</sup> to establish an integrated and adequate network of waste disposal installations, and to ensure that waste is recovered or disposed of without harming the environment, without endangering human health or causing a nuisance through noise, or adversely affecting the countryside or places of special interest.**

**19.4 In Wales, the aim should be to provide sufficient facilities to treat, manage, or dispose of all the waste produced. Each local authority should consider what facilities are required to manage all waste streams generated within its area in accordance with the proximity and self-sufficiency principles, although it may be necessary for some facilities to be shared. Local authorities should co-operate through joint working arrangements<sup>3</sup> to ensure that the aim to provide Wales with an integrated and adequate framework or network of facilities is actually achieved thus meeting the requirements of the EC Directive. Local authorities should encourage the movement of waste by rail and water rather than by road wherever economically feasible and having regard to the proximity principle.**

**19.5 UDPs should reflect these aims, and indicate the regard that the authority has had to any regional waste plan<sup>3</sup> relating to its area. Policies proposing any new, major development should incorporate an adequate and effective provision of waste management facilities.**

**19.6 The Environment Agency has a statutory role in development plans through individual plan consultations, the management and regulation of waste and the collection of waste production and management data. The Environment Agency will contribute to the development and implementation of the joint working arrangements. Local planning authorities and the Environment Agency are expected to work closely together to ensure that conditions attached to planning consents and those attached to consents from other pollution control regimes are complementary and do not duplicate each other.**

#### **References:**

- 1. Waste Strategy 2000(May 2000) - will be replaced by a Waste Strategy for Wales in 2001.**
- 2. 75/442/EEC as amended by 91/156/EEC and 91/692/EEC.**
- 3. Draft Waste Technical Advice Note to issue for consultation at the end of 2000.**

## **20. FLOOD RISK AND CLIMATE CHANGE**

**20.1 Flood risk, whether inland or from the sea, is a material consideration in land use planning and whilst flood risk can be reduced by using mitigation measures, it can never be completely eliminated. Planning authorities should recognise when assessing development proposals located within flood risk areas that the development is still at risk from flooding which may threaten human life and cause substantial damage to property, even where mitigation measures are proposed.**

**20.2 Planning authorities should adopt the precautionary principle when formulating development plan policies on development and flood risk and when considering planning applications. In this context, the principle, which is a fundamental element of sustainable development, should be applied on the basis that climate change is likely to increase flood risk. Consequently, planning authorities should guide development away from flood risk areas where life could be at risk and the potential damage could be great and give due weight to the case for refusing development that would itself increase the risk of flooding locally or**

elsewhere. Planning authorities should acknowledge that it may be inappropriate to locate certain types of development, such as residential premises, hospitals or schools, within areas at risk from flooding. Further advice on how this could be done will follow in a revised version of TAN 15, 'Development and Flood Risk', which will be issued as soon as possible<sup>1</sup>.

**20.3 Planning authorities, the Environment Agency and others should use the precautionary principle to plan now, on the basis of the latest climate change scenarios from the UK Climate Impact Programme, and consider how a changing climate is expected to affect the risk of flooding over the lifetime of new development. The Environment Agency should advise planning authorities as knowledge and availability of information increases where climate change will increase the specific risk to areas proposed for development in plans or when responding to planning applications.**

**20.4 Local authorities should take a strategic view of flood risk and consult with adjoining planning authorities and the Environment Agency during the preparation of development plans. The Environment Agency has a key role in advising and helping planning authorities and developers to understand the effects of flooding within a river catchment and useful advice is contained in relevant catchment management plans and Local Environmental Action Plans (LEAPs). The Environment Agency has developed a policy entitled "Policy and Practice for the Protection of Floodplains", which was sent to local planning authorities in Wales in 1999 and updated in November 2000. The results of surveys (under section 105(2) of the Water Resources Act 1991) such as the Environment Agency's indicative flood plain maps (sent to all local planning authorities in Wales in 1999) and other information should be taken into account by planning authorities as they prepare their development plans.**

**20.5 Planning authorities should bear in mind that the continued construction of hard-engineered flood defences to protect development in areas at risk from flooding is unlikely to be sustainable in the long term. A sustainable approach to flooding will involve the avoidance of development in flood risk areas, or, where it is essential that a development is located in a particular area, it should be located only where the potential damage would be low and it has an appropriate level of protection. It is essential that the Environment Agency's advice is obtained and given due weight as a material consideration by planning authorities in determining individual planning applications. Planning authorities must have good reasons for not following the advice of the Environment Agency, and these should be reported to the Environment Agency prior to planning consent being granted.**

**20.6 Planning authorities should ensure that the design of development in flood risk areas takes account of the risk to human life and damage to property that would occur in the event of over-topping of the flood defences. When considering new development, planning authorities should encourage design which does not increase surface run-off from the site concerned and consequently increase the risk of flooding elsewhere. Local authorities should encourage the use of sustainable urban drainage systems to control surface water as close to its source as possible.**

**20.7 Planning authorities should bear in mind that the Environment Agency will not automatically provide or extend a flood warning service. The Environment Agency has**



**demanding targets to meet and any increase in the number of new properties requiring a flood warning service will make these targets more difficult to achieve. Increasing the numbers of new properties in areas at risk from flooding will place increasing pressure on the emergency services and therefore consideration should be given to refusing development.**

## **References:**

- 1. Technical Advice Note (Wales) 15, 'Development and Flood Risk', 1998.**

## **21. LAND RECLAMATION, UNSTABLE LAND, AND CONTAMINATED LAND**

### **21.1 Land Reclamation**

21.1.1 Derelict and waste land should be restored and where possible brought back into beneficial use<sup>1</sup>. Preference should be given to development of derelict, and waste land, as opposed to the development of green field sites.

### **21.2 Unstable Land and Contaminated Land**

21.2.1 The planning system should guide development to lessen the risk from natural or man-made hazards, including risk from contaminated land. The aim is not to prevent the development of such land, though in some cases that may be the appropriate response. Rather it is to ensure that development is suitable and that the physical constraints on the land are taken into account at all stages of the planning process. However, responsibility for determining the extent and effects of instability or other risk remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed as a planning authority does not have a duty of care to landowners<sup>2,3</sup>.

21.2.2 Land instability and contamination must be considered by local planning authorities in preparation of their development plans to ensure that:

- new development is not undertaken without an understanding of the risks, including those **associated with the previous land use**, subsidence, mine and landfill gas emissions, landslips or rock falls;
- development does not take place without appropriate precautions **and/or appropriate remediation**;
- development should not be allowed if expensive engineering projects, which have implications for the public purse, will be required to prevent erosion, or in the case of receding cliffs if the site is likely to be affected during the lifetime of the development; and
- unstable land is restored to safeguard investment and, where possible, returned to productive use.

21.2.3 Local **planning** authorities should therefore take into account the nature, scale and extent of ground instability or contamination which may pose direct risks to life and health, buildings and structures, or indirect hazards associated with ground movement such as the possible migration of

landfill or mine gas.

21.2.4 Where appropriate development plans should indicate the general location of known areas of unstable ground and may also include specific proposals for sites known to be contaminated or where the site history suggests a risk of contamination. Policies for these areas must be accompanied by the warning that they have been defined on the basis of the best information available to the planning authority, are not necessarily exhaustive and that responsibility for determining the extent and effects of such constraints remains that of the developer. **Where significant instability and land contamination issues arise, the authority may require the production of detailed investigation and risk assessment prior to the determination of the application.** Proposals for areas of unstable or contaminated land should take due account of physical constraints and may recommend action on land reclamation or other remedial action to enable beneficial use of unstable land. Policies for the rehabilitation and development of existing contaminated and derelict sites should also be included.

21.2.5 Plans may indicate that the local planning authority will need to be satisfied that a site is stable or that any actual or potential instability or contamination can reasonably be overcome. Where acceptable measures could overcome such instability and contamination, then planning permission may be granted subject to conditions specifying the necessary measures. If instability and contamination cannot be overcome satisfactorily, the authority may refuse planning permission.

21.2.6 Planning decisions need to take into account:

- the potential hazard that instability and contamination could create both to the development itself, **its occupants and the local environment**; and
- results of a specialist investigation and assessment by the developer to determine the stability and contamination of the ground and to identify any remedial measures required to deal with any instability or contamination.

21.2.7 When planning permission is granted, a notice should be issued to inform the applicant that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. It should also advise the applicant that although the local planning authority has used its best endeavours to determine the application on the basis of the information available to it, this does not mean that the land is free from instability and contamination<sup>4</sup>.

## References:

1. **Environmental Protection Act 1990, as amended by the Environment Act 1995, Section 57.**
2. **Draft Technical Advice Note (Wales), ‘Development on Unstable Land’.**
3. **Draft Technical Advice Note (Wales), ‘Development on Contaminated Land’.**
4. **Welsh Office Circular 22/87, ‘Development of Contaminated Land’.**

## 22. POLLUTION

22.1 The planning system should determine whether a development is an acceptable use of land rather than seeking to control the processes or substances used in any particular development. Planning authorities should operate on the basis that the relevant control regimes will be properly applied and enforced by other agencies. Planning authorities should not seek to control through planning measures, matters that are the proper concern of the pollution control authority.

**22.2 The relevant environmental legislation that needs to be considered includes the regulatory regimes set out in the 'Environment Act 1995', the 'Environmental Protection Act 1990' and the regulatory regimes currently being introduced by the 'Pollution Prevention and Control Act 1999'. Each of these may have a bearing on the environmental controls imposed on the development, and planning authorities will need to ensure that planning conditions do not duplicate or contradict measures more appropriately controlled under these regimes.**

22.3 Development plans are an important vehicle for the promotion of environmental protection and should include strategic policies on the location of potentially polluting developments. Plans may set out policies and proposals to ensure that incompatible uses of land are separated, in order to avoid potential conflict between different types of development. They should make realistic provision for the types of industry or facility **that** may be detrimental to amenity or conservation interests, or a potential source of pollution. They should set out criteria by which applications for potentially polluting developments may be determined, but not exclude provision for such projects or prohibit all applications to set them up.

22.4 The potential for pollution affecting the use of land may be a material consideration in deciding whether to grant planning permission. Material considerations are likely to include:

- location, taking into account such considerations as the reasons for selecting the chosen site itself;
- impact on amenity;
- the risk and impact of potential pollution from the development insofar as this might have an effect on the use of other land (note: the environmental **regulatory regime may well have an interest in these issues, particularly if the development would impact on an 'Air Quality Management Area' or a 'Special Area for Conservation'**);
- prevention of nuisance;
- impact on the road and other transport networks and on the surrounding environment; and
- need, where relevant, and feasibility of restoring the land (and water resources) to standards sufficient for an appropriate after use (**note: there are powers contained in the Pollution Prevention and Control Act 1999 which require an operator to return a site to a satisfactory state on surrender of an Integrated Pollution Prevention and Control Permit**).

22.5 Planning authorities may use planning conditions or obligations to meet planning aims to protect the environment, where these are **pertinent** to the development proposed. It is important for planning authorities to understand the scope and purpose of conditions that can be imposed by pollution authorities **so as** to ensure that planning conditions neither duplicate nor conflict with such conditions. **Proposed development should be designed so as to prevent accidents to the environment and**

minimise the effect of any that do occur.

23. CANCELLATIONS

23.1 ‘Planning Guidance (Wales): Planning Policy’, **April 1999** is cancelled.

23.2 The following parts of **PPG14, ‘Development on Unstable Land’ (1990)**, continue to remain in force in Wales until superseded by a Technical Advice Note (Wales):

Appendix A: Causes of Instability

Appendix B: Sources of information

Annex A

Planning Policy Wales, Technical Advice Notes (Wales) (TAN(W)s)

TAN(W) 1	Joint Housing Land Availability Studies (revised) (1997)
TAN(W) 2	Planning and Affordable Housing (1996)
TAN(W) 3	Simplified Planning Zones (1996)
TAN(W) 4	Retailing and Town Centres (1996)
TAN(W) 5	Nature Conservation and Planning (1996)
TAN(W) 6	<b>Agricultural and Rural Development (2000)</b>
TAN(W) 7	Outdoor Advertisement Control (1996)
TAN(W) 8	Renewable Energy (1996)
TAN(W) 9	Enforcement of Planning Control (1997)
TAN(W) 10	Tree Preservation Orders (1997)
TAN(W) 11	Noise (1997)

TAN(W) 12	Design (1997)
TAN(W) 13	Tourism (1997)
TAN(W) 14	Coastal Planning (1998)
TAN(W) 15	Development and Flood Risk (1998)
TAN(W) 16	Sport and Recreation (1998)
TAN(W) 17	<b>Cancelled by Welsh Office Circular 11/99</b>
TAN(W) 18	Transport (1998)
TAN(W) 19	Telecommunications (1998)
TAN(W) 20	<b>The Welsh Language – Unitary Development Plans and Planning Control (2000)</b>

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