

CONSULTATION FORM [WG-17869]**Revision of Chapter 12 of Planning Policy Wales and Technical Advice
Note 21 (Waste) to reflect the new waste policy drivers**

We want to know your views on the proposed changes to the Welsh Government's planning policy for Waste.

Please submit your comments by **14th June 2013**

If you have any queries on this consultation, please email: planconsultations-F@wales.gsi.gov.uk or telephone: 029 2082 5731

Data Protection
<p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.</p> <p>Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.</p>

CONSULTATION FORM

Revision of Chapter 12 of Planning Policy Wales and Technical Advice Note 21 (Waste) to reflect the new waste policy drivers (Consultation)21st March – 14th June 2013

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Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

Q1	Do you agree that the draft planning policy (PPW & TAN21), as proposed, make clear how planning policy interacts with the waste objectives, priorities and targets?	
	Strongly Agree	<input type="checkbox"/>
	Agree	<input checked="" type="checkbox"/>
	Neither Agree nor Disagree	<input type="checkbox"/>
	Disagree	<input type="checkbox"/>
	Strongly Disagree	<input type="checkbox"/>

Q1(b)	Do you have any further comments?
<p>We welcome the opportunity to give our comments on the draft chapter of Planning Policy Wales and the associated TAN on Waste. We agree with much of the text, but think it could be further improved before finalising in the following main ways:</p> <ul style="list-style-type: none"> • Further highlighting the value of close and early engagement with NRW, both at the planning and 	

permitting stages.

- Further recognising the importance of linkages between protected sites and waste sites.
- Giving appropriate consideration to the requirements of Article 14 of the Energy Efficiency Directive.
- Amending the TAN to reflect that NRW can help and support LPAs by providing waste data and information, but would be reluctant to take on the role of ‘approving’ individual Lifecycle Assessments.
- Clarifying that proposed Waste Planning Assessments should require applicants to explain *how* they have taken the waste hierarchy into account.
- Making appropriate reference to the requirements of the Water Framework Directive.

This is a summary of our key points. We expand on this further in our responses to subsequent questions.

Q2a Do you agree that the draft planning policy, as proposed, will be effective in identifying suitable locations for mixed municipal waste disposal and recovery operations?

Strongly Agree

Agree

Neither Agree nor Disagree

Disagree

Strongly Disagree

Q2b Do you agree that the draft planning policy, as proposed, will be effective in facilitating the delivery of an adequate and integrated network of mixed municipal waste infrastructure?

Strongly Agree

Agree

Neither Agree nor Disagree

Disagree

Strongly Disagree

Q3	Do you agree that the revised TAN21 provides clear guidance on how local planning authorities can consider the provision of all types of waste infrastructure and facilities in a period in which the capture and management of waste is evolving?	
	Strongly Agree	<input type="checkbox"/>
	Agree	<input checked="" type="checkbox"/>
	Neither Agree nor Disagree	<input type="checkbox"/>
	Disagree	<input type="checkbox"/>
	Strongly Disagree	<input type="checkbox"/>

Q3(b)	Do you have any further comments?
<p>Provision for waste sites in LDPs</p> <p>We note that the draft chapter of Planning Policy Wales (PPW) states that “<i>the identification of suitable locations for such development should be considered as part of plan preparation, recognising that the most appropriate locations will be those with the least adverse impact on the location population and the environment and with the best potential to contribute to a broad infrastructure framework</i>” (draft PPW para 12.6.2). We welcome this. We note that paragraphs 3.21 – 3.28 of the draft TAN set out more detail on LDPs and waste. We welcome the following references:</p> <p>“<i>Many general employment sites and major industrial areas are likely to be suitable locations for the new generation of waste facilities [...]</i>” (para 3.22).</p> <p>“<i>As part of allocating employment land, local planning authorities should indicate where suitable and appropriate sites exist for the provision of all types of waste management facilities in order to provide some certainty for waste operators interested in fulfilling demand in an area</i>”. (para 3.25).</p> <p>We note that there is also scope for LPAs to allocate specific types of facility for specific sites (para 3.26), although there is no requirement for LPAs to do so.</p> <p>We believe that this policy is strong enough to ensure that LPAs make adequate provision for waste sites in their LDPs.</p> <p>Parallel tracking</p> <p>We support the references in the draft policy to the parallel tracking of planning applications and permits (for example, draft PPW Chapter 12, para 12.7.4). We believe that the text should clarify that parallel tracking is most appropriate for major or complex applications. It will also be particularly useful where there are particular environmental implications, such as impacts on air, water and protected species.</p> <p>Prior to the creation of NRW, Environment Agency Wales issued guidance on its approach to planning and permitting. The principles of the guidance remain relevant to NRW’s approach. The guidance is available on Environment Agency’s website www.environment-agency.gov.uk</p> <p>We recommend: The last sentence of draft PPW para 12.7.4 should be amended to read: “<i>For major or complex applications, it will be good practice to undertake parallel tracking of planning and environmental permitting applications. A project team approach can help coordinate a parallel tracking process.</i>”.</p> <p>Co-location of facilities</p> <p>We welcome references to the co-location of waste facilities with heat and energy users in order to allow the utilisation of waste heat and energy from the combustion process (for example, draft TAN21 paras 2.8.4 and 5.16). However, given that waste facilities usually involve emissions to air, which are often perceived negatively by communities, there is a need for sensitive siting. Consideration is therefore needed when siting potential</p>	

users of future waste heat and energy sources and not just at the consideration of the providers of such energy. There may be relevant links to requirements in relation to Article 14 of the Energy Efficiency Directive (2012/27/EU). Article 14 states:

“By 31 December 2015, Member States shall carry out and notify to the Commission a comprehensive assessment of the potential for the application of high-efficiency cogeneration and efficient district heating and cooling [...]”

We recommend: Welsh Government should align the emerging TAN21 with the requirements of the Energy Efficiency Directive by giving appropriate consideration to the requirements of Article 14.

Q4a Do you agree with the proposal to retain a minimum level of landfill capacity and void in each region (N, SW & SE) relative to a specified trigger point?

Strongly Agree

Agree

Neither Agree nor Disagree

Disagree

Strongly Disagree

Q4b Do you agree that this trigger should be based upon a number of years of void space? If not what should be used instead?

Yes. We consider that this would be appropriate. We consider that 8 years of capacity would be sufficient time to enable new landfill capacity to be identified and developed, in line with the suggested text set out in paragraphs 3.16 and 3.17.

We note that paragraph 3.18 states the lead LPA on behalf of regional constituent authorities should select a minimum of 2 appropriate sites for landfill, once a trigger point has been reached.

It would be useful if the TAN clarified why 2 identified sites are necessary. It may be more effective to identify landfill capacity shortages through appropriate LDP reviews and monitoring. This will help ensure that identified sites do not result in land being sterilised. LPAs should be able to use environmental information and advice from ourselves to establish whether sites are deliverable and therefore help Plans meet the tests of soundness.

We recommend: The text in paragraph 3.18 should clarify why it is necessary to identify two sites.

Notwithstanding our comments above, we note that paragraph 3.18 states that identification of sites should be done “with the support” of NRW. We believe it would be clearer to state “in early consultation with” NRW. NRW can provide environmental data and advice to the LPA to help them select their sites.

We recommend: The first sentence of paragraph 3.18 of the draft TAN should be amended to read “[...] and in early consultation with [...] NRW”.

Q4c	How many years [6,8, or 10] of void space capacity do you consider to be the most appropriate trigger point?	
	6 Years	<input type="checkbox"/>
	8 Years	<input checked="" type="checkbox"/>
	10 Years	<input type="checkbox"/>
	Other	<input type="checkbox"/>
	

Q5	Do you agree with the proposals on the production of Annual Monitoring Reports to be produced by Local Planning Authorities in conjunction with Natural Resources Wales?	
	Strongly Agree	<input type="checkbox"/>
	Agree	<input checked="" type="checkbox"/>
	Neither Agree nor Disagree	<input type="checkbox"/>
	Disagree	<input type="checkbox"/>
	Strongly Disagree	<input type="checkbox"/>

Q6	Do you agree that the Waste Planning Assessment will assist Local Planning Authorities to identify how the proposed development will contribute towards meeting Wales' objectives for waste, as set out in the Revised Waste Framework Directive, Towards Zero Waste, and the CIM Sector Plan?	
	Strongly Agree	<input type="checkbox"/>
	Agree	<input checked="" type="checkbox"/>
	Neither Agree nor Disagree	<input type="checkbox"/>
	Disagree	<input type="checkbox"/>
	Strongly Disagree	<input type="checkbox"/>

Q7

What further guidance, if any, would you like to see in the draft planning policy, as proposed?

Waste Planning Assessments

We welcome the introduction of Waste Planning Assessments, as referred to in draft TAN21 paras 4.2 and Annex B of the draft TAN. We also welcome the reference to applicants needing to partake in pre-application discussions with NRW (Appendix B, 1st paragraph).

We welcome that the Waste Planning Assessments require applicants to sign a declaration confirming that their statement sets out that the waste hierarchy has been considered. However, in order that the assessments provide a meaningful assessment of how the applicant has considered the waste hierarchy in formulating their proposals, we believe the Waste Planning Assessments need to be clear that applicants are required to explain *how* they have considered the waste hierarchy and other elements, for example, environmental sensitivities, in the design and preparation of their planning applications. This will help to ensure the proper consideration of the principles contained in the TAN.

We recommend: Under the heading “Waste Policy Statement” in Annex B of draft TAN 21, there should be an additional bullet point to read, “An explanation of how the applicant has complied with the waste hierarchy”.

We recommend: PPW chapter 12 should also make reference to the need for Waste Planning Assessments. We note that paragraph 4.2 of the draft TAN states that applicants “should” provide a Waste Planning Assessment, whereas, the second paragraph of Annex B states that “it will be necessary for applicants to provide a Waste Planning Assessment”. Consistent wording would make clear to applicants their obligation to provide a Waste Planning Assessment.

We recommend: Paragraph 4.2 of the draft TAN should be revised to state, “it will be necessary for applicants to provide a Waste Planning Assessment”.

We note that there is no reference in Annex B to environmental considerations, such as measures to fully consider protected sites, species, the remediation of contaminated land, air quality and water quality. We suggest that reference to them is included under the section on amenity and nuisance, or a new section on environmental issues is included. Alternatively, a note could be included in Annex B to refer applicants to Annex C to ensure they have taken these issues into account.

Annex B does not make reference to how the information in the Waste Planning Assessment should be considered alongside, or inform, information provided in any accompanying EIA or other environmental assessments provided in support of the application.

We recommend: Text is included to address the above two points.

Planning considerations

We welcome Annex C of the draft TAN, which we note sets out the planning considerations relevant to all proposals for waste management facilities. We have the following recommendations on how some of the wording of Annex C could be improved:

Paras 1.1-1.6 Atmospheric emissions:

With reference to paragraph 1.6, we agree that “the overall emissions of waste management facilities can be reduced by the co-location of facilities at nodal points [...]”. However, concentration of emissions to one location could also present cumulative local impacts. For example, a concentration of facilities close to protected sites could result in air emissions having a significant adverse effect on the features of such sites and be detrimental to their integrity (as defined in TAN5).

Waste management facilities may also generate diffuse pollution, such as from transport and waste movements. This should be considered as part of the planning process, and appropriate mitigation included.

We recommend: Text should be added to cover this point.

Paras 8.1- 8.3 Nature and archaeological conservation:

We recommend: Paragraph 8.1 should be amended to also refer to Geodiversity.

We note and welcome the reference to TAN5 in paragraph 4.30 in relation to Habitats Regulations Assessment and nature conservation interest. However, we note that there is no explanation in the draft TAN about the

legislative requirements for protected landscapes. This could be included in Paragraph 8.2 of Annex C.

We recommend: Paragraph 8.2 of draft TAN21 should be expanded to include relevant cross-references to PPW (Chapter 5) and TAN5, which clarify the level of protection afforded to the designations identified in paragraph 8.2.

Para 11.1-11.5 Protection of surface and groundwater:

We advise that this section make reference to the requirements of the Water Framework Directive.

We recommend: Text should be added to the end of paragraph 11.1 to state, “Applicants and LPAs should consider whether a proposed development would have the potential to cause deterioration in the ecological status of a waterbody, or prevent compliance with the Water Framework Directive. They should also consider whether the development has the opportunity to improve and enhance ecological and chemical status of a waterbody.”

We recommend: Paragraph 11.4 should explain that proposed developments for waste management facilities with the potential to contaminate land, or on land affected by contamination should be developed in line guidance including: “Groundwater Protection: Principles and Practice” (GP3) and the Environment Agency’s groundwater aquifer vulnerability maps. These are available on the Environment Agency website www.environment-agency.gov.uk. Whilst these are Environment Agency documents, the guidance contained within them is still NRW advice. In due course, NRW guidance and maps will be available.

Our advice is that seismological risk would not be a factor in siting waste facilities, because any earthquakes in Wales would not be big enough to have an effect on waste facilities.

We recommend: Reference to seismological risk should be removed from paragraph 11.4 of the draft TAN. Paragraph 11.2 should make reference to our advice regarding the siting of landfills. This is set out in Position Statement E in the document Groundwater Protection: Principles and Practice (GP3), November 2013 Version 1. LPAs and applicants should be aware that there are some areas of Wales where the nature of groundwater and surfacewaters would be unsuitable for new hazardous and non-hazardous landfills.

We recommend: Text should be added to reflect the above point.

We recommend: Paragraph 11.4 should be amended to read as follows (suggested additions underlined): Waste management facilities with any potential to contaminate soils or groundwater should be located on preferred sites with natural geological advantages, such as low permeability deposits and sites which are geotechnically stable. Groundwater vulnerability maps available from NRW will help in choosing suitable locations. Sites that are proposed in groundwater Source Protection Zone 1 areas are particularly sensitive and proposed developments in these areas should be discussed with NRW at the earliest opportunity. There is further advice from NRW on the siting of waste facilities and requirements to protect the environment in Position Statement F of their Groundwater Protection documents (GP3).

Paragraphs 12.1- 12.2 Flood Risk

Paragraph 12.1 should be amended to more fully reflect the requirements of TAN15. The draft text states that facilities proposed in areas without existing flood defence infrastructure are unlikely to be acceptable. TAN15 also sets out that facilities within defended areas still need to be justified by the Local Authority (in line with Section 6 of TAN15). Waste disposal sites are classified as ‘highly vulnerable’ development under TAN15.

We recommend: Paragraph 12.1 should be replaced with the following text:

“Waste management facilities proposed in areas at risk of flooding, without flood defence infrastructure, are unlikely to be acceptable. Facilities proposed in areas at risk of flooding served by flood defence infrastructure, will only be permitted if they can be justified by the Local Planning Authority. TAN15 (Development and Flood Risk) sets out further policy and advice on flood risk (including fluvial, coastal and surface water flooding). NRW can provide further advice to LPAs and to applicants on elements of TAN15, such as the management of consequences of flood risk.”

Paragraph 12.2 refers to landfill or landraising, not flood risk, as is in the title of section 12.

We recommend: Paragraph 12.2 should be inserted after paragraph 11.2.

Paragraphs 16.1-16.2 Planning Conditions

As has been highlighted in the draft TAN, there may be overlap between planning and permitting controls. It

would be useful if this section highlighted that planning conditions should focus on issues outside of the control of any permits required under the Environmental Permitting Regulations or other legislation. For example, a permit may control discharges to water, land or air from an installation itself, whereas a planning condition could cover runoff from car parks and access roads.

The second bullet point in paragraph 16.1 refers to waste management licences and PPC permits. Both have been subsumed into the Environmental Permitting Regulations (2010).

We recommend: The text should be amended to reflect these two points.

Q8

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Life cycle assessment

We refer to paragraph 4.5 on Life Cycle Assessment (LCA), which suggests “planning authorities should draw on the expertise in NRW to assist with evaluating the LCA”. We would be pleased to provide support to Local Authorities on LCA. This could include providing training and general advice to them. We previously provided LCA assistance to the Regional Waste Plans First Review, by providing a regional level LCA for all three regions. As you will be aware, this was financed by Welsh Government. We also provided similar assistance to Welsh Government to inform the development of their Waste Strategy. Again, this was backed by project funding which has now come to an end.

However, we would be reluctant to take on the role of ‘approving’ all individual LCAs submitted in support of planning applications, or generating LCAs ourselves. We do not believe that we currently have the resources to do this, based on our current business priorities.

We recommend: The text of paragraph 4.5 is changed to reflect that LPAs will undertake and review any necessary LCAs, and NRW will provide advice and support where appropriate.

Ecosystem services

We understand that Welsh Government is adopting an ecosystems approach. There appears to be no reference to an ecosystems approach in the draft TAN, and we believe this may be a missed opportunity. We understand Welsh Government is currently developing options for Natural Resource Management Planning, using an ecosystems approach. An ecosystems approach would provide an evidence base for strategic decision-making that could help deliver multiple benefits and better inform decisions on the appropriate location of key infrastructure, including a network of waste management facilities (for example, at a regional level). Understanding environmental systems and their health, along with the services that these provide to society and the economy, would help direct development to the most sustainable locations (that is, where there is the environmental capacity to accommodate that type of development). Engagement with NRW at the start of pre-application stages can help enable such an approach.

Pre-application discussions

We believe that the draft TAN could further emphasise the importance of early pre-application discussions between NRW, the LPA and the developer in helping enable the right development in the right place. We note this is mentioned in Annex B (1st paragraph), but believe it could be included in the main body of the TAN.

We recommend: A sentence should be added to the end of paragraph 4.25 to state, “*Developers should also undertake pre-application discussions with NRW at the earliest opportunity, keeping the LPA informed*”.

Other matters

We support the need for regional collaboration, as set out in paragraphs 3.5 to 3.8 and 3.21. However, we believe it would be useful for the TAN to give some guidelines on how the regional groupings will be identified. Is this via the conventional RWP regions, boundaries or consortia for residual waste infrastructure, or ad hoc voluntary collaboration?

We recommend: Text should be added to paragraph 3.5 to explain regional groupings will be identified. We note the reference to Regional Waste Plan first reviews in paragraph 3.19 of the draft TAN. It would be useful if the TAN clarified the status of the Regional Waste Plans, for example, the aspects that remain relevant to planning and whether or not Areas of Search will be updated in light of changes on the ground.

We recommend: Text should be added to clarify the status of the Regional Waste Plans.

We believe that the wording of paragraph 3.30 could be amended to clarify that the role of SEA and HRA is to highlight specific environmental issues and help direct the LPA to choose the most appropriate locations for different development types.

We recommend: The first sentence of paragraph 3.30 of the draft TAN should be re-worded to state: “*There are numerous factors that may influence the type of location ~~for~~ ~~of~~ new waste management facilities and which local planning authorities should consider as part of preparing local development plans. The Strategic Environmental Assessment and Habitats Regulations Assessment of the LDP should help the authority in the process of selecting suitable sites.*”

With reference to the second bullet point of paragraph 3.30, the feasibility of developing of quarries could also be influenced by the presence of protected species and habitats, and geodiversity.

See overleaf for further comments:

Our response to Question 8 continued

We recommend: In the second bullet point in paragraph 3.30, the following sentence should be added after the words “quarry depth”, “*the presence of protected species and habitats, geodiversity*”.

We welcome the reference in the penultimate two bullet points of paragraph 3.30 to the cumulative effects of waste management facilities. It would be useful if the text also clarified that in combination effects should also be considered by the Strategic Environment Assessment, Habitats Regulation Assessment and Environmental Impact Assessment processes, where relevant.

We recommend: Text should be added to the penultimate bullet point of paragraph 3.30 to state that in combination effects will need to be considered by the SEA, HRA and EIA processes, where applicable. With reference to paragraph 4.30, as you will be aware, the Habitat Regulations have been superseded by the Conservation of Habitats and Species Regulations 2010 (as amended by the 2012 Regulations), and the functions of the Countryside Council for Wales are now carried out by NRW since the publication of TAN 5. It would be useful to clarify this in the text.

We recommend: Paragraph 4.30 should include a paragraph to state, “*Developers should discuss with NRW at the earliest opportunity projects that would be likely to have a significant effect on the features of a European site. If there is a likelihood of significant effects, or where it cannot be demonstrated that there will not be any significant effects, an appropriate assessment must be undertaken by the competent authority to ensure that the project will not have an adverse effect on the integrity of the protected site. The developer is advised to provide all information requested to the competent authority for this purpose. Further detail is provided in Chapter 5 of PPW and TAN5.*”

A number of quarries are designated as geological SSSIs. Furthermore, a number of quarries are situated in close proximity to protected sites and where there are important groundwater links between the site and the quarry. Paragraph 3.30 should therefore recognise the importance of the links between quarries and nature conservation interests outside of the quarry.

We recommend: Paragraphs 3.30 and 4.30 should make reference to the fact that a number of quarries are designated as geological SSSIs. Text should be added to paragraphs 3.30 and 4.30 to reflect the above.

We welcome the reference in the penultimate two bullet points of paragraph 3.30 to the cumulative effects of waste management facilities. It would be useful if the text also clarified that in-combination effects should also be considered by the HRA and EIA processes.

We recommend: Text should be added to the penultimate bullet point of paragraph 3.30 to state that in combination effects will be considered by HRA and EIA, where applicable.

Additional comments on Question 5: We note that paragraph 3.10 of the draft TAN states that we currently provide information on the type and quantities of waste handled by permitted waste management facilities in Wales. We note the draft TAN states that this information will provide an evidence base for LPAs’ annual monitoring reports. We believe that could support LPAs to produce their Annual Monitoring Reports.

We have the following comments regarding paragraph 3.12.

- We query the need for collection of data on closed landfill sites as part of any forecast capacity. If sites are closed, they could be progressing towards surrender, and thus not be a useful part of any forecast capacity.
- The third bullet point appears to repeat the requirements of the first and second bullet point. We do not believe it is necessary to collect data for sites applied for (and not granted). This is because applications could be refused or withdrawn, and so not form part of the forecast capacity.
- The fifth bullet point repeats aspects of bullet points 1 and 2.

Confidentiality

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential please indicate here:

How to respond

Please submit your comments by 14th June 2013, in any of the following ways:

Email	Post
<p>Please complete the consultation form and send it to :</p> <p>planconsultations-F@wales.gsi.gov.uk</p> <p>[Please include 'TAN21 Waste Review' in the subject line]</p>	<p>Please complete the consultation form and send it to:</p> <p>TAN21 Waste Review (Consultation) Planning Policy Branch Planning Division Welsh Government Cathays Park, Cardiff CF10 3NQ</p>

Additional information

If you have any queries on this consultation, please

Email: planconsultations-F@wales.gsi.gov.uk

Telephone: James Hooker on 029 2082 5731