

Number: **WG23293**

**Consultation: Local Development Plans Process Review
- Annex 3: CONSULTATION RESPONSE FORM**

We want to know your views on our proposed revisions to improve our Local Development Plan (LDP) guidance documents and secondary legislation.

In considering the following questions we would like you to consider whether you agree with both the principle of the proposed changes and the detail of the revisions.

Please submit your comments by **2nd January 2015**

If you have any queries on this consultation,

please email: planconsultations-d@wales.gsi.gov.uk

or telephone: 029 2082 6956 / 3710; or 0300 0625426.

Data Protection

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.

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.

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 If someone has asked for their name and address not to be published, that is an important fact we would take into account.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be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published.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.

Confidentiality

Responses to consultations may be made public on the internet or in a report.

If you do not want your name and address to be shown on any documents we produce please indicate here

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CONSULTATION RESPONSE FORM

Local Development Plans Process Review (Consultation)

Date 1st October 2014 – 2nd January 2015

Name	Rhian Jardine	
Organisation	Natural resources Wales	
Address		
E-mail address		
Telephone		
Type <i>(please select one from the following)</i>	Business	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency / Other Public Sector	X
	Professional Body / Interest Group	<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	<u>Front-loading / alternative sites</u>	X
	With the proposed greater front-loading of the process in terms of sites and a more defined and informative Preferred Strategy, do you agree that no-one would be disadvantaged by the elimination of the 'alternative sites' stage (Regulations 20&21)?	
	Agree	
	Neither Agree nor Disagree	X
	Disagree	
Q1 Further Comments		
No Comments		

Q2	<u>Review report</u>	X
	Do you agree that the LPA should prepare and publish a Review Report to justify whether a full or partial plan revision is appropriate, and that this should form part of the package of required documents at pre-deposit, deposit and submission?	
	Agree	X
	Neither Agree nor Disagree	
	Disagree	
Q2 Further Comments		
NRW support the proposals for a LPA to prepare and publish a Review Report to inform and justify whether a full or partial revision of the LDP is undertaken.		

Q3	<u>Short-form Revision Procedure</u>	X
Where an authority is proposing to make partial revisions to an adopted LDP and the plan strategy remains sound, do you agree with the provision of the short-form revision procedure (quicker, shorter and more proportionate)?		
Agree		
Neither Agree nor Disagree		
Disagree		
Q3 Further Comments		
Although we welcome proposals to speed up the plan making process, and the proposals for a short-form revision procedure, that should not be at the expense of full consideration of any revisions to the LDP through the iterative SEA and HRA processes, and compliance with those processes.		

Q4	<u>Soundness tests</u>	X
Do you agree with the proposed package of soundness tests?		
Agree		
Neither Agree nor Disagree		X
Disagree		
Q4 Further Comments		
Although NRW broadly agree with the proposed package of soundness tests, we have the following comments relating to test 1 and 2.		
Test 1: Does the plan fit?		
It is not clear when the proposed amendments to the LDP process are meant to be implemented, ie before the passing of the Planning (Wales) Bill into legislation, or after the Bill has been brought into legislation. If it is the latter, as part of Test 1, the consultation on the LDP manual queries ' <i>whether the LDP has had regard to the WSP</i> '. All references to the Wales Spatial Plan, should be amended to make reference to the National Development		

Framework for Wales. Further, information should be provided as to what consideration/weight should be given to the WSP in the preparation of LDPs until the National Development Framework is prepared and adopted, particularly given the age of the WSP.

Q5	<u>Integrated approach</u>	X
	<p>a. Do you agree that an integrated approach to incorporating sustainability appraisal (including strategic environmental appraisal) fully into LDP preparation will produce savings and reduce complexity?</p> <p>b. Do you agree that this integration would not conflict with any statutory process?</p>	
	Agree	
	Neither Agree nor Disagree	
	Disagree	X

Q5	Further Comments	
	<p>The aim of the SEA Directive and SEA process is '<i>to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development</i>'. The suggestion in Draft PPW that SEA relates only to sustainable development does not reflect the aim or spirit of the Directive and compromises the primary aim of providing strategic environmental protection. We therefore recommend that paragraph 2.3.2 of the consultation on Chapter 2 of PPW is amended accordingly</p> <p>The SEA Directive is procedural in nature and clearly states the required process for assessment, consultation requirements and what needs to be included within an environmental report. There is therefore a statutory requirement to comply with the requirements of the Directive. The European Commission guidance states that the Environmental Report can be included in a wider assessment of the effects of the plan or programme – for example, as part of a sustainability assessment which also covers social and economic effects. Where this is done, the document must clearly show that the Directive has been complied with, for example by signposting to enable the components that meet the requirements for the Environmental Report to be readily identified. We recommend that paragraph 2.3.4 of the Draft PPW chapter 2 is revised to accurately reflect this.</p> <p>Our comments on Annex 1.2 of the Draft LDP Manual provides further advice on this issue.</p>	

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Q6	<u>Resources</u>	X
In the LDP Regulations, do you agree with adding 'resources' as a matter to which regard must be had at Regulation 13, given that LDP strategies should be deliverable within the plan period?		
Agree		x
Neither Agree nor Disagree		
Disagree		

Q6	<u>Further Comments</u>	
To ensure that land is not sterilised/blighted we agree with the proposal to include 'Resources' as a matter to which the LDP must have regard.		

Q7	<u>End date</u>	X
In the LDP Regulations, do you agree with adding the end date of the LDP period (i.e. the end of the period for which the LDP is planning) to the LDP sub-title at Regulation 11(1)(b)?		
Agree		x
Neither Agree nor Disagree		
Disagree		

Q7	<u>Further Comments</u>	
We welcome the aim to keep plans up to date and relevant, and consider that the introduction of an end date for a LDP will assist in contributing to that process.		

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Q8	<u>Notice by local advertisement</u>	X
In the LDP Regulations, do you agree with removing the requirement to give notice by local advertisement (e.g. at Reg22(5)(b); Reg23(1)(c); 24(2)(b); 25(2)(c); 26(b))?		
Agree		
Neither Agree nor Disagree		X
Disagree		

Q8	Further Comments	
No comment		

Q9	<u>Consultees</u>	X
Do you agree with the revised list of statutory consultees?		
Agree		
Neither Agree nor Disagree		X
Disagree		

Q9	Further Comments	
Although we broadly agree with the list of consultees set out in the Draft LDP Manual, we consider it would be useful to provide a list of relevant national and regional environmental groups. For example, Wildlife Trusts Wales, (http://www.wtwales.org/who-we-are/your-local-wildlife-trust) RSPB, (http://www.rspb.org.uk/whatwedo/wales/), CPRW (http://www.cprw.org.uk/), Campaign for National Parks, (http://www.cnp.org.uk/), the National Association of AONB authorities (http://www.landscapesforlife.org.uk/).		

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Q10	<u>Guidance package</u>	X
	Do you agree with the principle of having a succinct two-document guidance package that excludes the need for <i>LDP Wales</i> ? (Please note that we will in due course be revising the public guide, <i>Planning Your Community: A guide to Local Development Plans 2006</i> , to reflect changes taken forward.)	
	Agree	
	Neither Agree nor Disagree	x
	Disagree	

Q10	Further Comments

Q11	<u>Errors</u>	X
	Are there any factual errors in the revised LDP documentation?	
	Agree (yes)	x
	Neither Agree nor Disagree	
	Disagree (no)	

Q11	Further Comments
	Please see comments set out under Q12.

Q12

Any other comments

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.

General comments

Natural Resources Wales would welcome an opportunity to meet with Welsh Government to discuss how best to ensure the integration of the management of the environment and natural resources with local development plans including the provision of a consistent evidence base and technical advice and guidance.

Much of the detail on SEA and HRA needs to be amended to more accurately reflect legislative requirements.

There are a number of references to the Wales Spatial Plan that will need to be replaced in light of the provisions contained in the Planning (Wales) Bill, and reference made to the National Development Framework instead.

Specific comments

Draft PPW – Chapter 2 Local Development Plans

Para 2.2.6 Clarification is required whether or not the boundaries of N2K sites and SSSIs need to be shown on the proposals map, when there is likely to be a policy that provides protection for such areas or that identifies them as an area where constraints apply. (See para 2.2.3).

Para 2.2.7 Although there should be a strategic approach towards the phasing of development, NRW advises that there will be some circumstances where a numerical limit on permissions may be appropriate to avoid impacts on environmental features, particularly in relation to European sites until appropriate solutions have been identified and implemented. For example development which discharges foul or surface water drainage into the catchment of Carmarthen Bay and the Burry Inlet has been assessed as part of the HRA for the Swansea and Carmarthenshire LDPs, as maintaining water quality is identified as a conservation objective for the European marine sites in this area. As there is finite capacity in the existing system, once that capacity is used up, then any additional connections would require new capacity to be made available to avoid a potential deterioration in water quality. If phasing was based on a timescale only, in the case of the Burry Inlet area, that would limit all development until Dwr Cymru has upgraded its infrastructure.

The text should therefore be amended accordingly.

Para 2.2.8 The text could be amended so that in National Park Authorities, ‘a reasonable degree of choice and flexibility’ should be considered in the context of the statutory National Park purposes, particularly to conserve and enhance their natural beauty, wildlife and cultural heritage.

Para 2.3.3 We welcome the intention for the SEA process to apply to SPG. However, all subordinate plans and programmes arising from the LDP and not just SPGs, may require SEA eg masterplans. We recommend that the footnote/crossreference to the EIA Regulations is expanded to include all relevant EIA regulations and consenting regimes, not just the Town and Country Planning (EIA) (England and Wales) Regs 1999.

2.3.5 Whilst the reference to the identification of ‘the environmental, social and

economic objectives by which sustainable development can be defined' is appropriate for sustainability appraisal, it does not reflect the objectives of the SEA Directive and process which, as stated above in response to Q5 are '*to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development*'. To accord with the core aim of Directive 2001/42/EC, to provide high level of protection for the environment, we recommend that the text is amended to clarify that the SEA and its outcome should be clearly defined and presented .

2.3.6 As SEA is a legal requirement of the plan making process, we recommend that the text is amended to reflect this requirement. The consideration of alternatives is not optional in SEA. We therefore recommend that evaluation of 'alternative policies (where appropriate), proposals and location' should be rephrased to make it clear that the SEA process requires the consideration of reasonable alternatives.

2.3.7: Given that the SEA is a legal requirement and that the process is wholly concerned with the environment, we recommend that the third bullet point is situated at the top of the three points, and that this section makes clear that policies, plans and programmes which compromise the environment and ecosystem functions/services should not be considered as 'sustainable'.

2.3.8: See comments above on para 2.3.4.in response to Q5.

2.3.9: The SEA Regulations and UK guidance are very clear in respect to the need for SEA for Local Development Plans and, unless a screening determination has come to the unlikely conclusion that SEA is not required, there is no requirement to issue a screening opinion (or even to undertake a screening). The SEA screening exercise should however, be undertaken for SPG and other subordinate plans/programmes. The text as drafted needs to be amended to clarify that it is the responsibility of the plan makers/responsible authorities to undertake the scoping stage of the SEA process and to then seek the views of the statutory consultation bodies on the scope and level of detail to be required in the environmental report. Reference should be made to the statutory requirement for consultation at this stage of the SEA process. We recommend that this section is amended accordingly.

2.3.10: Again the suggestion that plan maker/responsible authorities should work 'with the SEA consultation bodies...' and prepare an initial SA report', is a little odd. Whilst non-statutory discussion with relevant consultees etc is to be welcomed and encouraged, it is the plan makers' responsibility to undertake the assessment process.

2.3.11: Reference should be made to the statutory requirement for consultation at this stage of the SEA process.

2.3.12 Habitats Regulations Assessment: (Renumber to 2.3.13)

Habitat Regulation Assessment includes 2 stages - test of likely significance and appropriate assessment. In the last but one sentence of the paragraph the text should therefore state: 'If such effects are likely, the plan must be subject to an appropriate assessment.'

When making reference to the sites that need to be considered, reference should also be made to cSACs.

2.3.13: In terms of IROPI, the text should clarify that IROPI can only be considered where there are no less damaging alternatives (a situation that is likely to be very rare in the context of an LDP) and even then, only if compensatory measures can be provided.

2.5.9 Clarification is required regarding what the process is where there is disagreement between the local authorities on an issue in a joint LDP.

Annex 1.2 Draft LDP Manual

Much of the detail on SEA and HRA needs to be amended to more accurately reflect legislative requirements. We would welcome an opportunity to meet to discuss given our role as a `consultation body`.

Plan preparation; Strategic Options and Preferred Strategy – reference to HRA is required.

Preparation of Deposit – Reference to additional update of HRA is needed.

Submission, Examination and Adoption – Add reference to the need to indicate whether there are any HRA issues.

How to respond

Please submit your comments by **2nd January 2015** in any of the following ways:

Email	Post
Please complete the consultation form and send it to : planconsultations-d@wales.gsi.gov.uk [Please include ' LDP Process Review Consultation WG23293 ' in the subject line]	Please complete the consultation form and send it to: LDP Process Review Consultation Plans Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ

Additional information

If you have any queries about this consultation, please

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

Telephone: Carole Doyle on 029 2082 6956,
Elaine Ancrum on 029 2082 3710, or
Heledd Cressey on 0300 0625426.

