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Llywodraeth Cymru
Welsh Government

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Consultation Responses - Part 2

Planning for Sustainability A Presumption in Favour of Sustainable Development

Date of Issue: October 2012

Overview

This document contains copies of the responses to the consultation on proposals to strengthen *Planning Policy Wales* and introduce a clear statement on the presumption in favour of sustainable development held 2 March 2012 – 25 May 2012 (WG14377).

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CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
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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 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 checked="" type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section at 2.7]	Please select	
Additional comments:			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
Additional comments:	

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: <input type="checkbox"/>

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CNP response to Planning for Sustainability consultation

The Campaign for National Parks (CNP) is the charity that campaigns to protect and promote National Parks in England and Wales as beautiful and inspirational places enjoyed and valued by all. It has been in existence for over 75 years. CNP's work in Wales is informed by a Welsh Advisory Committee, which includes representatives from each of the National Park Societies and other bodies such as CPRW and the National Association of AONBs. The National Park Authorities in Wales and National Parks Wales have observer status.

Question 1 – Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?

CNP welcomes the opportunity to respond to this consultation on amendments to national planning policy which are aimed at strengthening and clarifying the presumption in favour of sustainable development.

We are broadly supportive of the aims of the consultation. The planning system has a key role to play in the protection and enhancement of Wales' landscapes and natural resources and would be able to do this more effectively by taking a more integrated approach to sustainable development. However, we have some concerns about how the changes will work in practice, particularly in the absence of a clear definition of sustainable development, which we have discussed further in our response to question 3 below.

We also support the revisions to Chapter 4 of Planning Policy Wales (PPW) proposed by the Wales Environment Link (WEL) in their response to this consultation.

Question 2 – Do you agree that where development plan policies are out dated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?

CNP agrees with the proposal that outdated development plan policies should be given less weight than current national planning policy.

Question 3 – We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.

CNP recognises the key role that the planning system plays in supporting economic development and growth in Wales as well as protecting and enhancing the country's landscapes and natural resources. We also acknowledge and welcome the Welsh Government's commitment to sustainable development. However, we are concerned that there is neither a clear definition nor a consistent understanding of the exact meaning of the term 'sustainable development'. This issue needs to be addressed as a matter of urgency as part of the forthcoming Sustainable Development Bill. This is particularly disappointing given that One Wales One Planet published in 2009 provides a very good vision for sustainable development that should have provided the framework for this consultation and the definition of sustainable development. There is also good recognition in One Wales One Planet of the important role that landscapes including protected ones, play in achieving sustainable development.

CNP believes that the agreed definition of sustainable development must recognise that the economic and social aspects of sustainable development are inextricably dependent on the environment. It should be an integrated approach which operates within the accepted boundaries of defined environmental capacities and standards. 'Environmental capacity' should include full recognition of the special qualities and particular vulnerability of protected landscapes and the national sustainability exemplars and signposts these areas represent. It is for these and other reasons that our protected landscapes are already major deliverers of the Living Wales approach and represent significant economic assets in their own rights as a result of their current tourism context and role. This is not only because of the high quality environment in these areas but because they are also major suppliers of "feel good factors, social well-being and healthy living" providing inspiration and a sense of refreshment for those who choose to use and enjoy them.

The approach to planning policy and decision making should be an integrated one which seeks to benefit all three elements in the definition, rather than a balance-based approach where the three elements are weighed against each other, producing a "winner takes all" outcome. This means that development which exceeds the 'environmental capacity' of an area or resource should be avoided. At a minimum, development proposals in National Parks should not cause adverse impact on the environmental and social elements of sustainable development, and ideally, they should benefit all three elements.

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CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
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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 type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" 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"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

CoalPro strongly supports introducing a clear statement into national planning policy that there is a presumption in favour of sustainable development, and that the principles of sustainable development in Chapter 4 of Planning Policy Wales are maintained.

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy? [New section at 2.7]	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Please select	
<p>Additional comments:</p> <p>Yes, but with qualifications.</p> <p>The purpose of introducing the change is to enable changes in national planning policy to be taken into account as material considerations when considering development proposals when there is no local plan, or when the local plan precedes the change to national policy. The change should therefore be restricted to this and should not be extended to cover all kinds of other possibilities. Para 2.7.1 should be redrafted accordingly to restrict the range of material considerations to changes in national planning policy. The introduction of the words "such as" would seem to open the door to other matters and go beyond the purpose of this change.</p>			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
<p>Additional comments:</p> <p>CoalPro considers that there should be a rethink of the purpose of local plans. Whilst it is clear that these should be as up-to-date as possible, at present they have to deal with a mixture of strategic and local issues. The need to cater for strategic issues at local level means that it may be very difficult for preparers of local plans to comply with the presumption in favour of sustainable development which inevitably involves wider cross-boundary issues. Strategic issues should therefore be dealt with on a national, all-Wales, or a regional basis.</p>	

Confidentiality

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	Adam Rowe	
Organisation	South East Wales Biodiversity Records Centre	
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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 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 checked="" type="checkbox"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

The answer is a qualified 'Yes'. Of course we favour sustainable development over unsustainable development, but care needs to be taken to ensure that the new policy doesn't promote development for development's sake, unless it is truly sustainable and beneficial. The whole issue revolves around whether any development can be accurately demonstrated to be sustainable. All too often decisions are made in the absence of adequate, up-to-date and accurate information against which to assess sustainability.

As one of the four Local Records Centres (LRCs) in Wales, we are aware that many development decisions are made without proper reference to existing best-available information on biodiversity. For instance in South East Wales, of our twelve Unitary Authorities, only seven utilise the service we offer to have all planning applications checked against our databases. In an eighth authority, staff utilise biodiversity data layers we provide to support their development control work. Three of the remaining Authorities have used our biodiversity data layers to assist the process of Development Plan production, but do not use them for day-to-day development control purposes. A final Authority has never utilised our services since they became available in 2005.

The picture described above shows incomplete usage of existing information sources, but it masks a further issue and that is that all datasets on biodiversity are highly incomplete. Our datasets are assembled from a range of sources, but with a heavy reliance on records collected and submitted by voluntary species experts. Apart from the recording undertaken by these specialists, the majority of survey work is now undertaken by commercial environmental consultants, acting on behalf of developers. These surveys, whilst produced to professional standards, are often not comprehensive enough. Sites are often only assessed during one season and the number of site visits is often very small. Our experience of such surveys is that they cannot definitively judge the presence or absence of particular species. A further issue is that these surveys often focus almost exclusively on legally protected species, rather than on a broader view of 'biodiversity', which may include other nationally or locally important species and habitats. Sites supporting such species and habitats are frequently lost (without any mitigation) during the development process and our biodiversity resources are being slowly chipped away in a manner which cannot be said to be sustainable.

In conclusion, whilst all future development should be truly sustainable, we do not believe that sufficient information currently exists to determine what is and is not sustainable from a biodiversity viewpoint. Until we have a more complete understanding and knowledge of our ecosystems and the impacts of development upon them, unsustainable biodiversity loss will continue.

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy? [New section at 2.7]	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Please select	
<p>Additional comments: The table in Annex A is something of an indictment of the whole planning process in Wales, with some Authorities having had no plan ever, or none in the last 15+ years. It is clearly correct that decisions should not be made in the light of policies that are so old and the wording of national planning policy should therefore take precedence.</p>			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
	<p>Additional comments: I am concerned that the four LRCs in Wales (individually or collectively under the banner 'Local Records Centres Wales') were missed off this consultation. Please could we be added to your contacts lists for future consultations. Our details can be located via www.lrcwales.org.uk</p>

Confidentiality
<p>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: <input type="checkbox"/></p>

Planning for Sustainability
The presumption in favour of sustainable development

Q1. Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?

- a) **The authority consider the proposed change is not required given the existing emphasis on sustainability in the planning system and that amendments to PPW on sustainability before details of the proposed Sustainability Development Bill are known would be premature and lead to confusion.**
- b) The Welsh Government has already committed itself to legislating for sustainable development, and a White Paper is due to be issued in 2012 for discussion. A clear definition of sustainable development should come out of this process and this definition must include land use planning to ensure clarity and consistency in Government and all devolved public bodies. Amending current advice would lead to confusion and would complicate the ongoing LDP process.
- c) WG recognise that planning has always been about balancing competing demands, UDPs and LDPs have both been prepared with the objective of delivering sustainable development. LDPs must, by statute, contribute to the achievement of sustainable development, have regard to national policies and are required to carry out an appraisal of the sustainability of the plan. Similarly, where authorities prepared UDPs they were required to have regard to environmental, social and economic considerations and were expected to carry out a full sustainability appraisal of their development plans. Both UDPs and LDPs have also been prepared against the context of the Welsh Government's Sustainable Duty (1998) and *Planning Policy Wales* (since 2002) which embeds sustainable development into the planning system. Adopted and approved UDPs and LDPs therefore provide a robust basis for planning decisions for sustainable development to be made at the local level. Carmarthenshire have an adopted UDP in place and have undertaken a Sustainability Appraisal of the Local Development Plan. Introducing premature amendments to PPW, as advocated, would introduce complication in adoption of the Carmarthenshire's LDP.
- d) To amend planning guidance will duplicate and confuse the function and purpose of the SD Bill; the position is further complicated by a recent call for evidence for new Planning Bill which has a strong element on sustainable development. No evidence is presented to justify this national change, Annex B lists authorities with an adopted UDP or LDP, only six of the 25 local planning authorities do not have a development plan in place based on SD principles. This does not justify a change in national guidance

Q2. Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?

- a) **The authority agree that development plan policies become outdated however:**
- b) The consultation document makes no reference to monitoring and review elements of the development plan process; Carmarthenshire UDP and Draft LDP provide a framework for an appropriate level and distribution of growth in accordance with a sustainable settlement strategy which along with a monitoring and review framework, which seeks to ensure that the LDP remains effective, up to date the relevant the principles of SD are safeguarded. The introduction of a monitoring and review framework is essential for allowing the effectiveness of the LDP (and its policies and

proposals) to be understood. This will assist in identifying any changes or amendments required and will also clarify the information needed to review the Plan and its policies (along with any identified targets). It will allow the Council to assess how the Plan is progressing in relation to those targets (be they national or locally important ones). No recognition is made of these aspects of the development plan system which is enshrined in the regulations and guidance on the LDP. A change in national guidance at this stage would involve revisiting the LDP involving further costs in vetting the plan against this revised policy. The proposed change is not required as existing guidance is in place in particular the Annual Monitoring Review (AMR) provides the necessary monitoring of the Plan's SD credentials.

Local Development Plans Wales, (Welsh Assembly Government, 2005) states in paragraph 4.45 in relation to *Plan Review (LDP Regulation 41)*

*The timing and frequency of full plan review will depend upon the findings of the AMR and on local circumstances. When monitoring points to the need for a full review, the Assembly Government should be informed if it is not evident in the submitted AMR. An authority should commence a full review of its LDP at least once every 4 years, and this should ideally be integrated with a review of the community strategy/ies. The review should include reconsideration of the **sustainability appraisal** and the soundness of the plan. Annual monitoring and regular review will mean that plans remain up-to-date and support the objectives of the plan-led system of providing certainty; rational and consistent decisions; and a reduction in the number of misconceived planning applications and appeals.*

There is also provision for *Alteration and Replacement of Plans*; paragraph 4.46 - *Replacement of a plan (i.e. a complete new plan) will be justified where a review or annual monitoring report has indicated that the existing plan is substantially out-of-date and the scale of alterations therefore needed is fundamental.*

- c) Development policies are based on evidence gathered at a certain point in time it is inevitable therefore they become dated, it is the same however with national policies which rely on information and data gathered at a particular point in time. One key example of potential policies which can become outdated is where they are linked with national guidance is Technical Advice Note 15 where conflict between the reality on the ground as reflected by up to date modeling and the objective in TAN 15 of resisting vulnerable development in Flood C2 zones. The Development Advisory Maps that accompany the TAN are not updated on a regular basis whereas modeling work prompted by Flood Consequences Assessments requirement within the TAN along with the Environment Agency work frequently highlight the inaccuracies of the DAMS. The result is that objections are raised to LDP allocations and applications are needlessly called in on dogmatic application of national policy rather than a pragmatic approach in response to up to date evidence.

Q3. We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.

There is no indication of the implications of the proposed revision on the present process undertaken by LPAs on LDPs; authorities are required to work to an agreed timetable amendments to the national policies at a key stage in the preparation of a Plan can lead to delays.

Background

The South West Wales Integrated Transport Consortium (SWWITCH) was formed in 1998 by the four Councils in South West Wales:

- Carmarthenshire County Council
- Neath Port Talbot County Borough Council
- Pembrokeshire County Council
- The City and County of Swansea

The Councils recognised that in terms of strategic transport planning and delivery relatively small local Councils lacked the capacity and experience to work in isolation and there would be benefits in regional collaboration. This approach was subsequently encouraged by the Welsh Government (WG) which has financially supported SWWITCH since 2001/02. The voluntary grouping has evolved over time and was formalised through the adoption of a SWWITCH legal Agreement (2005).

The Regional Transport Plan for South West Wales

During the period 2006 -2009 SWWITCH engaged with a wide range of stakeholders to develop a Regional Transport Plan (RTP) for South West Wales. This plan set out a vision, objectives, long term strategy and programme of capital projects which would help achieve the objectives and improve transport and access in the region. The RTP supports the delivery of National Transport Plan aspirations and now forms the basis for annual bids for capital funding from the WG.

Sustainable Development

The RTP was prepared in accordance with Guidance issued by the WG and was subject to a Strategic Environmental Assessment and the Habits Regulation Assessment process. It was also strongly influenced by engagement with planning colleagues in each constituent council, who were at that time in the early stage of developing the Local Development Plans (LDPs).

The RTP is supportive of sustainable development and in particular the link between land use and good access as a basis for reducing social inequality, promoting economic activity and reducing environmental impacts of transport. The RTP Long Term Strategy (see overleaf) demonstrates the SWWITCH vision of sustainability which goes beyond support for sustainable transport to creating sustainable communities and lifestyles.

The RTP was submitted in September 2009 and approved by the WG in December 2009. A first Annual Progress Report on the RTP was prepared and submitted to the WG in September 2011. That report confirmed the enduring link between the evolving LDPs and the RTP, stating that “SWWITCH Councils are using the RTP vision, objectives and strategy as key building blocks in the LDP process”. The Report appendices included further detail on the synergy between the RTP and LDPs.

Sustainable Development

SWWITCH supports the commitments from the WG to sustainable development and the principle underlying this consultation that the presumption should be in favour of sustainable development.

Planning for Sustainability – The presumption in favour of sustainable development

RTP Long Term Strategy

- **Improving land use and transportation planning** – through the use of Accessibility Planning to ensure that development is put in the right place.
- **Improving strategic east/west road and rail links**– to create more reliable internal connectivity and improved connectivity with rest of Wales, the UK and European neighbours.
- **Improving Strategic Bus Corridors** – to create more reliable and attractive connectivity between key settlements.
- **Promoting integration** – to encourage more sustainable travel choices and reduce the barriers to interchange
- **Improving safety in transport** – to reduce personal injuries and fears for personal safety.
- **Providing more and better information** - to raise awareness on the range and use of sustainable transport options
- **Improving linkages between key settlements and strategic employment sites** - to create a range of attractive passenger transport and walking and cycling opportunities linking key settlements with their hinterlands and with strategic employment sites.
- **Improving the efficiency of the highway network** – through a range of appropriate mechanisms including demand restraint.

Question 1 – SWWITCH agrees with the approach to strengthening national planning policy by introducing a clear statement.

However, in practice supporting development that is sustainable in an economic, social and environmentally balanced way is difficult. There is often need to compromise between the three pillars of sustainability and in essence the changes proposed to Planning Policy will not make the choices any easier. It will still be for each Council to consider (in the context of the principles and policy objectives) what the appropriate balance between economic, social and environmental sustainability should be. The presumption will, however, help to ensure that all the elements of sustainability are properly considered and the decisions on the appropriate balance at a strategic (plan) level and practical (decision) level are transparent.

Question 2 – SWWITCH agrees that where development plans are outdated or superseded they should be given decreasing weight in favour of other material considerations such as national policy and SWWITCH believes this is already happening in practice in the region. However, this does presume that all national policy is up to date which needs to be considered. There also needs to be some clarity about “outdated” as some plans which have been adopted sometime ago and have been regularly reviewed and (where appropriate) updated remain relevant even though they appear to be “old”, whilst other more recently adopted plans may be much weaker in the context of sustainable development.

Question 3 – No further comment



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WG 14377
Presumption Consultation
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24 May 2012

Consultation on Planning for Sustainability
The Presumption in favour of Sustainable Development

1. The Friends of the Pembrokeshire National Park [FPNP] is an independent voluntary charity committed to help protect, conserve and enhance the Pembrokeshire Coast National Park for all to enjoy. We welcome the opportunity to respond to the consultation on 'Planning for Sustainability'.
2. As a charitable organisation dedicated to the preservation and enhancement of the only coastal national park in the UK where National Park status has been conferred because of the coastline, FPNP are concerned to see that the Welsh Government's legislative programme and policies apply the 'organising principle' of Sustainable Development in a way which fully reflects the importance and value of protected landscapes in Wales.
3. In the context of planning for sustainability it is important to recognise that protected landscapes account for 25% of the total area of the country. By their designation as National Park or AONB they differ from nature conservation designations (confined to specific sites) in that they cover large areas within which a wide range of activities take place including farming, forestry, tourism and various forms of recreation, as well as including specific nature conservation sites. Through their statutory management plans the managers of the National Parks and AONBs go through a process of integrating this whole range of social and economic activities with the special environmental qualities inherent in the protected landscape designation so that the special qualities are preserved and enhanced while social and economic benefits flow to the community. The benefit of designation is seen in that the Pembrokeshire Coast National Park alone generates £68 million annually and supports 4600 jobs. This is a success which should not be put at risk in the world of Sustainable Development but which should be built upon by ensuring full recognition of the benefits of the protected landscape designations and their proper application.
4. FPNP have a number of major concerns with the proposal at the heart of the present consultation. These are set out below followed by our views on the proposed revisions for Planning Policy Wales and then by our replies to the specific questions.

Timing and Implementation

5. We believe that it would be premature to take action upon this consultation prior to full consideration of the report of the Independent Advisory Group (IAG) on the role of the planning system in delivering Sustainable Development since to do so would pre-empt the report's conclusions. We strongly urge, therefore, that no action be taken until the results of this consultation have been considered alongside the IAG's report, the consultation on Proposals for a Sustainable Development Bill and in conjunction with the proposed planning legislation and the forthcoming consultation on National Parks.
6. Deferral of action on this consultation as outlined would enable greater clarity to be given to the definition of Sustainable Development *in the planning context* and how it will bear upon the definitions in the planning legislation. At present expert planning lawyers are pointing to the lack of clarity in the existing definitions of the term, one being reported as saying, "It's totally up for grabs what Sustainable Development means". The uncertainty which would follow the introduction of a presumption in favour of Sustainable Development without clear definition in the planning context would almost certainly lead to a greater number of appeals, applications for Judicial Review etc with their consequent delays and additional costs, including the costs falling on planning authorities.

The Present Definition of Sustainable Development

7. FPNP are concerned that the present consultation document does not appear to give sufficient weight or emphasis to the 'environmental' factor, not, therefore, appearing to fulfil the requirement to 'enhance the natural and cultural environment and respect its limits.'
8. FPNP believe it essential that proper weight be given to the third factor and that this requires:-
 - a) recognition that the supply of land, whether in Wales as a whole or in any particular area, is not infinite and that changes in the use and development of land are commonly permanent and irrevocable;
 - b) avoidance of development which exceeds the 'environmental capacity' of an area or resource;
 - c) that 'environmental capacity' includes giving full weight to the value of protected landscapes as set by the special qualities for which they have been designated.
9. FPNP believes, therefore, that the agreed definition of sustainable development must recognise that the economic and social aspects of sustainable development are inextricably dependent on the environment. It should be an integrated approach which operates within the accepted boundaries of defined environmental capacities and standards. 'Environmental capacity' should include full recognition of the special qualities and particular vulnerability of protected landscapes and the national sustainability exemplars and signposts these areas represent. It is for these and other reasons that our protected landscapes are already major deliverers of the Living Wales approach and represent significant economic assets in their own rights as a result of their current tourism context and role. This is not only because of the high quality environment in these areas but because they are also major suppliers of "feel good factors, social well-being and healthy living" providing inspiration and a sense of refreshment for those who choose to use and enjoy them.
10. We consider that the approach to planning policy and decision making should be an integrated one which seeks to benefit all three elements in the definition, rather than a balance-based approach where

the three elements are weighed against each other, producing a “winner takes all” outcome. This means that development which exceeds the ‘environmental capacity’ of an area or resource should be avoided. At a minimum, development proposals in National Parks should not cause adverse impact on the environmental and social elements of sustainable development, and ideally, they should benefit all three elements.

Comments on Proposed Revisions of Planning Policy Wales

11. In the light of the above FPNP do not find the proposed revisions satisfactory:

- a) Planning Policy Wales Paragraph 4.2.1.- whilst we support the broad thrust of the suggestion for amending this paragraph made by Wales Environment Link, we feel that the position with respect to protected landscapes [National Parks and AONBs] should be stronger i.e. that the special qualities for which they have been designated should not be impaired. This does not mean that they are ‘no-go’ areas, rather it means, as pointed out in paragraph 10 above, that any development must at least be neutral in its impact on the special qualities and, preferably, should enhance them, as well as the other elements of sustainable development.
- b) Planning Policy Wales Paragraph 4.2.2 - FPNP do not regard the proposed paragraph as satisfactory in that it makes no reference to environmental protection. This should be rectified and we suggest this would give the opportunity to refer to the factors we list at paragraph 8 above.
- c) Planning Policy Wales Paragraph 4.2.3 - we make the same comment as made in regard to sub-paragraph a) above
- d) Planning Policy Wales Paragraph 4.2.4 - We repeat our views that no presumption should be introduced other than after full consideration with the proposed planning legislation, the consultation on the proposed Sustainable Development Bill and the National Parks consultation. Further it should be made clear that Sustainable Development should be applied in protected landscape areas observing the statutory duties applicable to them. We also consider that decision-makers should be required to show how they have integrated the various policy areas.

Replies to Questions 1 & 2

Question 1

12. FPNP are not in support of the introduction of a presumption in favour of Sustainable Development unless and until the results of the present consultation have been considered alongside the provisions of the proposed planning legislation, the consultation on the proposed Sustainable Development Bill and the consultation on National Parks in Wales. Further, we would not support the introduction of such a presumption without:-

- a) clear definition of ‘Sustainable Development’ in a planning context;
- b) full recognition of the environmental factor and the weight to be placed upon it in protected landscapes as set out in paragraph 8 above.

Question 2

13. FPNP agree that where Development Plan policies are out of date decreasing weight should be given to them in favour of other considerations such as national planning policy. However:-

- a) we believe that everything should be done to ensure that the processes of preparing and revising development plans are followed rigorously;
- b) it is important that consistency and certainty are not prejudiced by frequent changes of policy;
- c) FPNP would not support the use of national policy for the introduction of a presumption in favour of Sustainable Development other than on the basis set out in our reply to Question 1.

14. Please note that this response has the support of the Brecon Beacons Park Society who share our concern about the possible implications for the National Parks and Areas of Outstanding Natural Beauty of Wales.

Yours faithfully,



Peter Heard
Chairman

Folliss Alex ESD - Planning

From: Vicky Moller [mailto:vickymoller@btinternet.com]

Sent: 25 May 2012 08:38

To: planconsultations-c

Subject: response to presumption in favour SD

I am having difficulty with the online consultation form so here is a response outside the boxes:

Name Vicky Moller, Transition Wales, Fachongle Isaf, Newport Pembs. SA42 0QR 01239 820971

I have recently contacted 21 Transition groups from cities, market towns, villages and rural hamlets accross Wales. These groups are dedicated to helping their communities move out of dependence on fossil fuels and into a self-reliant resilient economy and society, depending on its own resources and enriching rather than depleting them.

The groups endorse the need for planning to underpin and not undermine the transition to a sustainable society which has moved on from our present use and dependence on fossil fuels and the global economy.

.

Living within our resources and enriching rather than depleting them is the essence of sustainable development.

These groups hope that the change you propose in this consultation to enable the principle of sustainable development to take precedence over outdated planning policies is exactly what we need to solve our multiple social, economic and environmental crises and what we need to deliver the harmonious integrated advanced society so urgently needed in Wales and the rest of the world.

Please ensure that planning is no longer the adversarial, non collaborative daunting process that excludes all the but the most professionally well connected. Return it to a principle based framework that people can understand and respect and work with.

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25th May 2012

Welsh Government: Planning for Sustainability. *The presumption in favour of sustainable development* A TCPA Submission

1. About the TCPA

Founded in 1899, the Town and Country Planning Association (TCPA) is the UK's oldest independent charity focused on planning and sustainable development. Through our work over the last century we have improved both the art and science of planning in the UK and abroad. The TCPA puts social justice and the environment at the heart of policy debate and seeks to inspire Government, industry and campaigners to take a fresh perspective on major issues, including planning policy, housing, regeneration and climate change. Our objectives are to:

- *Secure a decent, well designed home for everyone, in a human-scale environment combining the best features of town and country*
- *Empower people and communities to influence decisions that affect them*
- *Improve the planning system in accordance with the principles of sustainable development*

2. Background to the consultation

The Welsh Government's sustainable development scheme, *Our Sustainable Development Scheme: One Wales: One Planet* published in 2009, sets out its approach to sustainable development. The Welsh Government is also subject to a sustainable development duty under Section 79 of the Government of Wales Act 2006 including a monitoring requirement to publish a report of how the proposals set out in the sustainable development scheme were implemented in that financial year.

In January 2011 the National Assembly for Wales Sustainability Committee reported on its *Inquiry into Planning in Wales*, and recommended (Recommendation 8) that the Welsh Government should "...consider the introduction in planning policy of a presumption in favour of sustainable development". This recommendation was accepted by the Welsh Government. Then in June 2011 the Minister for Environment and Sustainable Development stated that we would amend national planning policy to introduce a presumption in favour of sustainable development. The Minister reiterated that the best way to ensure that sustainable planning decisions are taken is to ensure that an up-to-date development plan is in place.

The consultation proposal is based on the approach that planning authorities should give decreasing weight to development plan policies where they are outdated or superseded in favour of other material considerations such as national policy. In Wales, the national policy guidance is comprehensive with an overarching and coherent Planning Policy Wales supplemented by Technical Advice Notes (TANs) and circulars.

3. TCPA response to consultation questions

The TCPA welcomes the opportunity to comment on this proposal for a Welsh Presumption in Favour of Sustainable Development.

As leading independent thinkers on the UK planning system, the TCPA aims to contribute to policy development in all the home nations of the UK. The TCPA engages the users of

the planning system, including its members, local authorities, academics, the private sector, local communities, individuals, and Government to ensure final approved proposals are robust, based on evidence on the ground, and will ultimately lead to just and sustainable outcomes.

The TCPA recognises the fundamental differences in the overall framework to delivering sustainable development through the planning system between the English new planning system and the Welsh planning system, and considers that lessons can be learnt from the English experience. In particular how LPAs and the sector are responding to the transitional arrangements in Annex 1 of the NPPF. The TCPA also recognises the raft of proposed and forthcoming policy initiatives from the Welsh Government aimed at a holistic and more effective delivery of sustainable development both corporately and through the planning system. On these bases, the TCPA makes the following comments in response to the consultation questions.

The TCPA supports the approach taken by the Welsh Government to the Presumption in Favour of Sustainable Development because the approach emphasises the plan-led system, retains the raft of existing national guidance (PPW and TANs), provides the necessary policy incentive for LPAs to continue to work to adopt their Local Development Plans, and provides a level of policy certainty for users of the planning system.

The TCPA suggests that such an introductory statement should be included in Section 1: Introduction of PPW at the earliest opportunity because the Presumption in Favour of Sustainable Development is and will be a significant decision-making policy throughout the planning process, in particular where the LPA does not have an adopted plan in place or has one that is out of date.

The TCPA welcomes and agrees that where development plan policies are 'outdated' or 'superseded', LPAs should give them decreasing weight in favour of other material considerations such as national planning policy. The Welsh Government's commitment to keeping national planning policy up-to-date in respect of issues crucial to the delivery of sustainable development is demonstrated by recent updates to PPW on planning for climate change, sustainable buildings, and renewable and low carbon energy; and draft updates and a new draft TAN on supporting the economy. The TCPA welcomes the explicit statement that Welsh LPAs can give appropriate weight to this detailed national policy framework in determining planning applications alongside an emerging LDP.

TCPA recommends that implementation of the new policy is monitored to assess its effectiveness in improving decision-making and in enabling sustainable development.

4. References

Department for Communities and Local Government (DCLG), March 2012, National Planning Policy Framework, www.communities.gov.uk/publications/planningandbuilding/nppf

Practitioners Advisory Group, May 2011, *National Planning Policy Framework. A proposed draft from the Practitioners Advisory Group*, www.nppfpractitionersadvisorygroup.org/

TCPA Response to the draft National Planning Policy Framework, September 2011, www.tcpa.org.uk/data/files/resources/1060/TCPA-NPPF-Public-Briefing.pdf

TCPA written evidence submission to the Communities and Local Government Select Committee inquiry into the National Planning Policy Framework, in particular the section on the presumption in favour of sustainable development, September 2011, www.publications.parliament.uk/pa/cm201012/cmselect/cmcomloc/1526/1526we06.htm

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Welsh Government Consultation Document Planning for Sustainability: The presumption in favour of sustainable development

Submission from The Co-operative Group

About the Co-operative Group

The Co-operative Group is the UK's largest mutual business, owned not by private shareholders but by almost six million consumers. We are the UK's fifth biggest food retailer, the leading convenience store operator and a major financial services provider, with The Co-operative Banking Group as a wholly owned subsidiary. Nationally we have an annual turnover of almost £14billion.

The Group operates 169 Food store outlets in Wales, including one in every postal area. We are also the number one pharmacy provider in Wales and one of the leading funeralcare providers. We also have substantial community farming interests in Wales.

The Co-operative also has an active membership base in all parts of Wales. Our members in Wales have the chance to have a say in how our business is run. They help to shape the way we do business, the policies we create and how we help local communities. Members also get to shape how our Community Fund is spent on local projects. They can help the fund by donating their share of the profits and organise local events run by members.

Question 1

Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?

The Co-operative Group recognises the need for a modern planning system in Wales that promotes economic growth through sustainable development.

We also recognise that the existing planning system in Wales has sometimes failed to deliver the type of inclusive and predictable outcomes necessary to promote a decision-making process that is representative of the needs of communities, while still facilitating the investment and growth essential to support a healthy economy.

Therefore, we very much support the ambition within the consultation document to "strengthen and clarify the presumption in favour of sustainable development". We recognise the important role that a strategic planning system needs to play in promoting sustainable growth, where the economic, social and environmental priorities of a development scheme are assessed in a holistic manner. This is particularly important at this time as the Welsh economy rebuilds following a deep recession and where future growth needs to be based on a sound foundation.

We do however urge the Welsh Government to ensure that any definition of sustainable development is rigorous, not open to interpretation and particularly not merely a vehicle for a default "yes" to all planning applications. To this degree we feel that the three dimensions used in the National Planning Policy Framework for England offers a balanced and unambiguous form of words for how planning

decisions should be examined to ensure that they perform the role of sustainable development:

1. An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

2. A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

3. An environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

Supporting a Town Centre First approach to sustainable development

To add to this we would like to see a clear statement within any future planning policy as to why town centres should be considered a step apart from the overriding 'presumption in favour of sustainable development'.

We welcome the consultation document's support for the retail planning policy known as 'Town Centre First'. There is an established political consensus and extensive evidence that supports successful local, neighbourhood and town centres as a valuable focus for local communities. Investment in such centres creates multiple social, environmental and economic benefits for the communities they serve. The evidence is clear and there is little reasonable debate to suggest the contrary.

However, while the general community good is served by strong town centres, some individual retail businesses claim that their interests are served best in out of centre locations. These sites offer cheaper land that can be easier to acquire, with fewer construction constraints and the potential for large areas of free parking dedicated to serve that specific retailer. In addition, we note that according to independent research commissioned by the Association of Convenience stores, 80% of planned supermarket building in the UK will be out of town. The figures also show that the amount of supermarket floor space under construction out-of-town is more than three times larger than the amount being built in towns.

This conflict between the interests of the community and the apparent preferences of an individual retailer creates a tension that an effective planning system must try and resolve. And, when we consider the multi million pound value of such investments, only a clear and robust set of planning policies will be able to overturn that innate preference for out of town and successfully direct such investment to a town centre. In circumstances where planning policy needs to become a development management tool, it presently fails to offer sufficient clarity and depth to ensure its principle aims are achieved at the decision making level.

We also strongly support the recommendation from the Welsh Government Enterprise and Business Committee that the government "should ensure that Planning Policy Wales fully protects town centres from the potential impacts of out-of-town developments".

Presumption in favour of renewable developments

The Co-operative Group supports the ambition stated within the consultation document that development should only be implemented by *“using only our fair share of the earth’s resources and sustaining our cultural legacy”*. However, we would like to see the environmental credentials of the document go further by implementing a clear and unequivocal *presumption in favour of planning applications for renewable developments*.

In the renewable energy sector, The Co-operative Bank is considered a market leader in the provision of sub-£20m finance. In 2007, the bank committed £400m to fund renewable energy and efficiency projects. We have recently pledged to extend this commercial lending to £1bn by 2013. Alongside finance from The Co-operative Bank, The Co-operative Enterprise Hub, which supports co-operative enterprises with free advice and grants, has set aside £1m to support community renewables.

A positive emphasis placed on supporting new renewable and low carbon developments will, we believe, help to reduce Wales’s dependence on fossil fuel based energy sources.

Question 2

Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?

As a membership based organisation we instinctively support the Government’s commitment to give local communities greater influence in plan making and development decisions in their local areas. Planning has, to a large extent, become the preserve of experts and special interest groups. Many communities have found that the complexity of the process, its often adversarial nature and the costs of funding the technical information demanded have resulted in their effective exclusion from meaningful involvement.

We also strongly back the Committees proposal that the Welsh Government should ensure, through planning guidance, that local planning authorities set out a “positive vision for all their town centres and high streets in their Local Development Plan”.

The consultation document sets out a series of plan making and decision-making requirements for a variety of development uses. It places clear obligations on plan makers to have a strong evidence base, to consider the future needs of their area and to plan accordingly. It is absolutely correct to place such positive obligations on plan-makers, but by doing so, inevitably planning guidance creates arguments for developers who may wish to promote schemes that are not in accordance with the plan.

The direction provided to plan making leaves two major issues unresolved. If not addressed, these gaps will place a disproportionate emphasis on the development management policies of the planning guidance which in its current state it is unable to address.

Firstly, the Local Plan process as presently envisaged will still suffer from the same weakness – the evidence base for the allocations and policies of the plan will be effectively out of date before the plan is ratified. While they are designed to look

forward, plans are based on a projection of needs formed from an assessment of historic trends. Surveys are undertaken, analysis made and then a plan is formed. The relevance of the plan is therefore always dependant on the accuracy of the surveys and evidence base that underpins the plan. Whenever that evidence is shown to be out of date or otherwise weak, applicants for planning inevitably turn to the planning guidance as a development management tool to find the justification they require to support their proposals.

The temptation to adopt this tactic will increase where planning guidance is more open to interpretation. A light touch planning framework, coupled with a local plan system that is vulnerable to attack, will create the unintended consequence of actually increasing the amount of ad hoc planning decisions, thereby weakening the plan led system and further disenfranchising local communities who commit to plan making only to see their powers circumvented.

The consultation paper directs that the evidence base must be up to date. This is essential to maintain the relevance of the plan. However, this direction can only be effective if mirrored by a change to the mechanism for plan making. Planning policy should require plans to be living documents, regularly updated with evidence every year and adjusted to flex to meet changing circumstances through a process of interim reviews. This would help to avoid the problem of out of date evidence, would re-enforce the primacy of the plan as the decision making mechanism of choice, and thereby ensure that communities who engage in the plan review process do not see their intentions undermined by developers acting outside of that process. I

Secondly, Local Plans tend to follow administrative boundaries. Neighbourhood plans will by definition cover sub areas of the local plan. Functional catchments do not tend to follow the same boundaries. This is particularly true of retail catchments, but is also true of most travel-to-work areas.

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	Simon Gale	
Organisation	Rhondda Cynon Taf CBC	
Address	Regeneration & Planning	
E-mail address	ldp@rctcbc.gov.uk	
Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input 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"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

The Council supports the principle of sustainable development and the WGs intention of retaining it at the heart of the planning process but it does not support the approach suggested by this consultation.

Whilst all parties generally support the principle of sustainable development, it is so broad in scope and open to interpretation, that it is difficult to define sustainable development in a way which directly influences the use of land at the local level. A heavily prescriptive approach would be required from WG to influence on the ground development. As it will be for LPAs to reconcile and balance the key policy objectives for their area, it is difficult to see how introducing a presumption in favour of sustainable development will make any practical difference to the current process.

The proposed section 4.2 does not add anything significantly new to existing national policy. Proposed paragraphs 4.2.1 to 4.2.5 are all effectively the status quo. Amending PPW as proposed could give the impression that national policy has changed when in effect it hasn't. There is also a danger that 'a presumption in favour of sustainable development' will be taken to mean the same as 'a presumption in favour of development'. This is clearly not the intention of the proposed 4.2 and risks creating confusion and uncertainty.

It is fundamentally important that emerging and adopted LDPs are not undermined by the perception that development which is considered to be 'sustainable' but contrary to the LDP, is presumed to be acceptable following the proposed amendment to PPW.

It is acknowledged that environmental and ecological considerations are often thought to outweigh economic and social ones in the planning process. It is also important to show that the planning system can help to facilitate new development. A simpler statement setting out a presumption in favour of development that accords with an up-to-date development plan may help send out the message that the planning system supports appropriate new development and avoid a confusing debate around what constitutes sustainable development

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy? [New section at 2.7]	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Please select	
<p>Additional comments:</p> <p>The Council agrees that where development plan policies are outdated or superseded, decreasing weight should be given in favour of more up-to-date national policy and would support an explicit statement to this effect.</p> <p>It is incumbent on LPAs to prepare up-to-date development plans which reflect local circumstances, evidence and national policy and is inappropriate to base planning decisions on development plans that are significantly out of date.</p> <p>Consideration should be given to what weight may be applied to emerging LDPs. Where as an adopted development plan may be silent on an issue, a deposit LDP may provide an appropriate framework against which to consider a proposal. Whilst in some instances it will be inappropriate to use an emerging LDP to determine a proposal (on a controversial site for example) in others it will not and it will be reasonable for the emerging plan to be taken into account.</p>			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
<p>Additional comments:</p>	

Confidentiality
<p>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: <input type="checkbox"/></p>

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	Andrew Gurney	
Organisation	Farmers' Union of Wales	
Address	Llys Amaeth Plas Gogerddan Aberystwyth Ceredigion SY23 3BT	
E-mail address	andrew.gurney@fuw.org.uk	
Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" 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"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

The FUW believes that there needs to be more flexibility in the planning system to allow rural businesses to diversify, adapt to changing market conditions and meet the demands of new opportunities which would result in the sustainable development and growth of the rural economy. Therefore, the Union welcomes the proposed amendments which would introduce a clear statement on the presumption in favour of sustainable development, into section 4 of Planning Policy Wales.

Whilst welcoming the amendments the Union is concerned that there could be little change in delivery at a local level, particularly within rural communities, due to the wide range of interpretation of national planning policy and the overly cautious approach to development in rural areas taken by local planning authorities.

The FUW also remains concerned that the approach to rural development by many local authorities is restricted by excessive statutory and non-statutory environmental and conservation designations in Wales which act as a barrier to inward investment and the development of businesses outside of towns and villages.

Due to the number of designations there is a perception that, in rural areas, environmental protection is seen to be more important than the other criteria - economic and social well-being of communities - which define Sustainable Development.

The FUW trusts that, in adopting a strengthened approach to sustainable development, the rural economy will be able to benefit from the adoption of alternative energy infrastructure and other climate change mitigation developments which are currently subject to excessive bureaucracy and red tape due to the lack of a presumption in favour of small scale developments.

Q2	<p>Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?</p> <p>[New section at 2.7]</p>	Yes	No
		<input checked="checked" type="checkbox"/>	<input type="checkbox"/>
		Please select	
<p>Additional comments:</p> <p>While acknowledging that Local Development Plans or Unitary Development Plans are the most appropriate means of determining individual applications at a local level, as they take into account local needs, the Union believes that, where these Plans are outdated or have been superseded by more up-to-date national planning policies, Local Planning Authorities should give them decreasing weight in favour of other material considerations such as Planning Policy Wales.</p> <p>On the basis that national planning policy could be more up-to-date than Local Development Plans, the Union believes that there is a role for Welsh Government intervention to ensure that its policy aspirations are adequately reflected in Local Development Plans and that local delivery is in accordance with these aspirations.</p> <p>There is also a need for the Welsh Government to monitor and review, on a regular basis, Local Development Plans to determine whether there has been any progress in adopting the policies outlined in Planning Policy Wales and to ensure that the aspirations are being delivered at a local level.</p>			

Q3	<p>We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.</p>
-----------	--

Additional comments:

From an internal consultation with the Union's members, there is a perception that progressive planning policy has not been adopted with any great enthusiasm in rural areas which has resulted in a lack of development and subsequent stagnation of rural areas. For development to be truly seen as sustainable, the FUW believes that changes to Planning Policy Wales need to be applicable to all areas of Wales including rural communities.

The Union also believes that sustainable development in rural communities isn't solely about the built environment. Sustainable development can only be achieved if there are associated improvements to service provision, including alternative energy infrastructure, broadband connections, public transport, local schools and local amenities such as post offices and shops, in these areas.

To ensure that the proposed amendments are recognised at a local level, it is vital for Welsh Government to ensure that its underlying aims are not interpreted differently by overly cautious planning authorities as has been the case with TAN 6 whose positive policies have been misinterpreted resulting in unnecessarily bureaucratic guidance which has stifled sustainable development.

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: ☐

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	Ian Sharrock	
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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"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

We believe that in order for development to be sustainable it is important that other policies are not excluded, such as balancing the risks to the public from the effects of a major accident.

Under Article 12 of the Seveso II Directive member states have to ensure “that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in their land use policies and /or other relevant policies.” The Directive is implemented in the UK, in part, through planning legislation. Under this legislation HSE is a statutory consultee for certain proposed development within the HSE consultation distances (notified to Local Planning Authorities) of major hazard installations/pipelines, development within the safeguarding zones around nuclear installations and licensed explosive sites.

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy? [New section at 2.7]	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
		Please select	
<p>Additional comments:</p>			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
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Additional comments:

HSE supports the presumption in favour of sustainable development as an enabling regulator of health and safety in the workplace and also as an advisor to LPAs, helping them achieve a positive outcome in balancing the needs of industry, the needs of the community and the interests of public safety in their planning decisions. The latter remains a significant challenge because of historical decisions made about where the industries concerned are sited, often close to existing communities.

The Office for Nuclear Regulation (ONR) is a non statutory agency of the HSE and provides the following comments on sustainable development around nuclear sites:

While ONR supports the reasoning behind the Welsh Government's policy presumption in favour of positive planning decisions, for these to be sustainable it is important that we control developments around nuclear installations in order to ensure that people and society are properly protected.

The nuclear accident at Fukushima highlighted the importance of managing the density and distribution of people around nuclear installations. In his final report to Government on the lessons to be learned for the UK as a result of the accident, Mike Weightman (HM Chief Inspector of Nuclear Installations), stated that:

"The practicability of implementing off-site countermeasures is inextricably linked to the density and distribution of people around the nuclear site. A site that was acceptable for emergency planning purposes when it was first established may not continue to be acceptable unless planning controls limit population growth in the site's locality, or action can be taken to ensure the off-site emergency countermeasures can cope with the changed demographic. In making decisions on planning consent for developments near to nuclear sites, it is therefore vital that ONR's expert advice on these matters continues to be given full consideration by the relevant planning authorities. In light of the events at Fukushima, we consider that it is timely for the relevant Government departments in the UK to examine the existing system of planning controls for developments in the vicinity of nuclear sites and consider the need for improvements."

The report makes the following recommendation:

"Recommendation FR-5: The relevant Government departments in England, Wales and Scotland should examine the adequacy of the existing system of planning controls for commercial and residential developments off the nuclear licensed site."

The Department of Energy and Climate Change is co-ordinating the Government's response to this, and you may have noticed that the recently published National Planning Policy Framework document recognised the need to take account of major hazard sites (including nuclear installations), the need to mitigate the consequences of major accidents, and the need to consult with appropriate bodies when planning or determining applications for developments around major hazard sites.

In the interests of protecting people and society from the risks of major hazard sites, and therefore promoting sustainable development, the view of ONR is that this planning recommendation should also apply in Wales.

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: ☐



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25th May 2012

WG14377 Presumption Consultation
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

To whom it may concern

Planning for sustainability: the presumption in favour of sustainable development

The Federation of Small Businesses Wales is grateful for the opportunity to submit evidence to this consultation. FSB Wales represents the views of 10,000 small businesses and the self employed as well as the interests of all those individuals, partnerships and companies which together make up the largest section of the Welsh economy. FSB Wales is the authoritative voice of small businesses in Wales with 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees; FSB Wales is in constant contact with small businesses at grassroots level.

Introduction

FSB Wales welcomes the opportunity to discuss issues around planning and sustainable development in advance of the Welsh Government's proposed Planning and Sustainable Development Bills. FSB Wales notes with interest changes that have recently been made to planning guidance in England, introducing the National Planning Policy Framework (NPPF) and its presumption in favour of sustainable development¹.

¹ National Assembly for Wales Research Service. 2012. *Planning policy changes in England and current developments in Wales* [Online]. Available at: <http://www.assemblywales.org/bus-home/research/bus-assembly-research-publications/enviro-sustainability/rn12-007.pdf?langoption=3&ttl=Planning%20policy%20changes%20in%20England%20and%20current%20developments%20in%20Wales%20-%20Research%20note> (accessed 23rd May 2012).

The debate around planning reform provides an opportunity to take a fresh look at the relationship between planning and growth; in particular how the planning process can be made simpler, to allow small businesses to expand and diversify.

As a matter of first principle, FSB Wales believes that the Welsh Government must ensure that there is a clear definition of sustainable development that does not favour big businesses at the expense of small firms; and helps streamline and free the planning process from unnecessary delays.

FSB Wales notes the consultation document² that defines sustainable development as:

"...enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations, in ways which:

- a. Promote social justice and equality of opportunity, and*
- b. Enhance the natural and cultural; environment and respect its limits – using only our fair share of the earth's resources and sustaining our cultural legacy".*

Clearly, small businesses are a crucial part of the social and economic fabric of Wales' communities and have a vital role to play in sustainable development. The presumption in favour of sustainable development should enable local planning authorities to make decisions transparently and quickly, encouraging good practice rather than serving as an additional barrier to small businesses in navigating the planning system.

The planning system should be responsive to the needs of small businesses and guidance should be clear and concise so that small businesses easily understand the process.

Q1. Do you agree with our approach to strengthening national planning policy by the introduction of a clear statement on the presumption in favour of sustainable development?

FSB Wales believes that the Welsh Government's approach to strengthening national planning policy by the introduction of a clear statement on the presumption in favour of sustainable development is to be welcomed in principle. However, FSB Wales urges the Welsh Government to ensure that this is robust and promotes a system that is genuinely streamlined, transparent and free of unnecessary delay. Sustainable development should be about creating vibrant local communities that include self sustaining business districts and facilitate economic and social development; small businesses have a large role to play in this.

It is crucial that the Welsh Government's definition of sustainable development is sufficient in scope in order to encompass the social, economic and environmental needs

² Welsh Government. 2012. Planning for Sustainable Development: the presumption in favour of sustainable development [online]. Available at: <http://wales.gov.uk/docs/desh/consultation/120302sustainabledevelopmenten.pdf> (accessed 23rd May 2012)

of small businesses in Wales. Small businesses play a vital role in communities across Wales and are intricately linked to their wellbeing. As such, any definition of sustainable development should aim to improve the vibrancy of small businesses in Wales and facilitate their navigation of the planning system.

Sustainable development should allow Local Development Plans to place sufficient focus on protecting areas that local communities value, such as high streets and town centres, and allow them to resist development that is not in line with that vision.

Q2. Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?

FSB Wales acknowledges the Welsh Government's plan led approach to the planning system as outlined in the consultation document. However, FSB Wales is concerned that the current process of creating Local Development Plans (LDPs) has not been sufficient enough to ensure robust direction at a local level. Indeed, only five local authorities currently have a LDP in place while many other local authorities have plans that are quickly becoming out of date. Therefore, FSB Wales welcomes any moves towards instilling greater flexibility in the planning system to allow for current goals to be achieved, especially around economic development which is crucial at a time of economic instability. However, FSB Wales believes that the Welsh Government needs to re-examine the LDP process and ask why local authorities have not been forthcoming with LDPs. The Welsh Government should consider adding compulsory elements to encourage local authorities to comply.

FSB Wales previously conducted research in partnership with Cardiff School of City and Regional Planning titled *Small Businesses and the Planning System in Wales*³ that sought to examine the implications of planning policies on the vibrancy of small businesses in Wales. The research produced a number of recommendations that would lead to a better experience for small businesses in dealing with the planning system, including; conducting research to review the effectiveness of the LDP system, auditing LDPs to assess their impact on small businesses and appropriately acknowledging and ameliorating the disproportionate burden of policies and requirements on small businesses within planning regulations.

One of the key issues that developed amongst FSB Wales members as part of this study was the growing complexity of national planning policy. It was accepted that the means of updating planning policy via Planning Policy Wales, Technical Advice Notices, Minerals Planning Policy Wales and Ministerial Interim Planning Policy Statements (MIPPSs) was not sufficiently transparent to allow small businesses to navigate planning guidelines. FSB Wales notes the approach taken in England where the NPPF has sought to streamline guidance into a single framework that encompasses around 50 pages. The Welsh Government should consider this approach in moving forward with its proposed Planning Bill.

The FSB Wales research also pointed to the patchy and inconsistent application of national planning guidance at a local planning authority level. This is extremely relevant in relation to the question posed and would lend weight to the use of national planning policy in the absence of an outdated or superseded Local Development Plan. However, this should be on the proviso that national planning policy is sufficiently robust in

³ FSB Wales. 2009. *Small Businesses and the Planning System in Wales*. Cardiff; Cardiff School of City and Regional Planning.

addressing small business concerns. The FSB Wales study highlighted examples of good practice towards small businesses at a national planning policy level that were not adequately translated at a local level. It is essential that the Welsh Government ensures best practice in dealing with small businesses in the planning system is highlighted and transmitted to local authorities' whose LDP has become outdated or is limited in its expression of policies relevant to small businesses.

Q3. We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.

FSB Wales has recently aired its concerns around the current number of local authorities in Wales, particularly in relation to the city regional approach currently being considered by the Welsh Government. Clearly, issues around consistency within the planning system are exacerbated by the number of planning authorities in Wales which includes 22 local planning authorities and 3 national park authorities. FSB Wales urges the Welsh Government to examine this situation in light of the difficulties experienced in the LDP process.

Furthermore, the Welsh Government should consider measures to improve small businesses' experience of the planning system in Wales including the creation of a guidance tool for small businesses in navigating the planning system. There could also be greater distinction made between major and minor planning applications in order to make the process easier and quicker for small businesses.

FSB Wales believes that sustainable development goals should be adequately assessed in order to ensure that they are appropriately implemented, particularly with regard to small businesses. Measurements such as retail impact assessments of large planning applications and out of town developments should ensure that the needs of small businesses and their local communities are heard.

Conclusion

In conclusion, the Welsh Government should see the presumption in favour of sustainable development as an opportunity to highlight good practice and increase transparency and efficiency within the planning system. FSB Wales believes that the principles of sustainable development are just; but that sufficient attention must be provided on increasing the vibrancy of small businesses that form a fundamental part of local communities and their economies across Wales.

FSB Wales is concerned that the LDP process has not yet delivered results in terms of clarity for small businesses and would welcome the greater use of national planning policy in the planning decision process, provided that national policy is simple, understandable and relevant to small businesses. This should also include an examination of the deficiencies in the current LDP process.

FSB Wales welcomes the opportunity to contribute to the debate around planning reform in anticipation of the Welsh Government's proposed Planning Bill and looks forward to ongoing engagement on the matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'JL Jones'.

Janet Jones

Chair, Wales Policy Unit
Federation of Small Businesses Wales

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	Tracy Nettleton	
Organisation	Brecon Beacons National Park Authority	
Address	Plas y Ffynnon Cambrian Way Brecon LD3 7HP	
E-mail address	tracy.nettleton@breconbeacons.org	
Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input 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"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

The Brecon Beacons National Park Authority agrees with the approach in principle. The National Park Authority strives to be an exemplar of sustainable development and this principle underpins its emerging Local Development Plan. We are in support of national policy which promotes true sustainable development in accordance with the definition on page 4 of the consultation. We are however concerned that there is a risk that the "presumption in favour of sustainable development" will become increasingly widely interpreted over time and the presumption may weakened to "presumption in favour of development". The current economic climate is likely to put increased pressure on politicians and inspectors at planning appeals to prioritise "development" over "sustainable development."

The BBNPA is also concerned that no account has been taken of the implications of the proposed presumption for National Parks exercising their function as Local Planning Authorities. We acknowledge that the objective of the proposed amendment is to enable the implementation of the "One Wales" document through the planning system. However, we note that this document contains no reference to the special position and statutory purposes of the National Park. The Statutory Purposes of National Park designation set out a clear weighting for National Parks where integrating the 3 elements of sustainability (economic, social and environmental) in favour of conservation and enhancement of the environment. (Please note the use of the phrase "integrate". In responding to parallel consultations on the Sustaining a Living Wales paper and Natural Resources Wales the NPA has stressed the need to refer to the concept of "integrating" and not "balancing" the elements of sustainability). We therefore request that the proposed amendment to Planning Policy Wales be amended to include recognition that in a National Park Authority, when decision makers are balancing and reconciling the key policy objectives of sustainable development, they will be obliged to take into account the statutory purposes and duty of the National Park as set out in the Environment Act 1995. This will be the guiding principle against which decisions regarding the integration of environmental and landscape factors will set the context for achieving social and economic well being. We therefore stress that PPW should contain a clear recognition of this fact and that the process of consideration of material considerations will be distinct from that in a Unitary Authority Local Planning Authority. Furthermore, we request that serious consideration is given to incorporating into the forthcoming Sustainable Development Bill, Planning Bill or Environment Bill, a statutory recognition of the National Park's role as a special purpose local planning authority, distinct from the Unitary Authority planning authorities. This would enable the NPA to better deliver true sustainable development which is appropriate to the designation through the planning system. The requirement under s62(2) of the Environment Act relating to the duty placed on neighbouring authorities to have regard to the National Park Purposes also requires strengthening. This would enable neighbouring authorities to ensure that they deliver appropriate sustainable development on the fringes of the National Park.

Furthermore, we are concerned that the presumption in favour of sustainable development will lead to the promotion of schemes which may be demonstrated to be sustainable in nature but which will not necessarily be appropriate development in a National Park. We consider that an amendment to the text is required to refer to "appropriate sustainable development". We believe that resilience as well as sustainability is equally important. For example a development might be sustainable where it has a low environmental impact but if the activities that it supports do not have a long term future or do not help local communities to mitigate and adapt to the effects of climate change and energy descent, then the development is not resilient.

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy? [New section at 2.7]	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Please select	
<p>Additional comments:</p> <p>Whilst we appreciate the sentiment of the proposed change, the National Park Authority is concerned that there is insufficient guidance regarding the situation where a Unitary Development Plan has been through the examination and modification process but has not been adopted by the Welsh Government. We consider that the proposed amendment will create an unnecessary policy vacuum. Should the amendment be introduced the corollary for the National Park Authority would be that our most recent Development Plan would be the Adopted LDP which was adopted in May 1999 and which is therefore not up to date with national legislation, planning policy and Welsh Government policy statements on National Parks.</p> <p>However, the BBNPA UDP has been approved for development control purposes and we have a number of Appeal Decisions where the Inspector has confirmed that it should be given considerable weight. The plan was based on the principles of sustainable development and was subject to an SEA/SA process and thus is considered by the Authority and Appeal Inspectors to be of greater weight than the out of date Adopted Local Development Plan. To reduce the extent to which the NPA is able to rely upon the UDP is clearly not in the best interests of either good planning decisions or the National Park. We consider that PPW should give clearer guidance about the amount of weight that can be given to a plan, such as BBNPA's which has progressed significantly through the process and the extent to which it can be considered as a material consideration. This is particularly important where this plan is more up to date and relevant than the adopted plan.</p> <p>In light of our comments at Question 1, we are concerned that the presumption in favour of sustainable development will result in schemes which are not appropriate to the National Park designation. The proposed amendment to 2.7 will weaken the ability of the Authority to rely on Unitary Development Policies which have set out the process which will enable decision makers to consider what types of development are sustainable in a National Park. These policies have been tested at Examination and have been the subject of proposed modifications which were consulted upon and have been the subject of SA/SEA/</p>			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
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Additional comments:

1. We request that you give greater consideration to the relationship of the proposed amendments to the National Park Purposes and Duty as set out in the Environment Act 1995. We also request that further consideration is given to the implications of the amendments to 2.7 for those Authorities who are currently relying upon Unitary Development Plans which are approved for Development Control Purposes.
2. We are concerned about the lack of consideration of the implications of the presumption for Enforcement Cases. We are concerned that the presumption in favour of sustainable development might result in persons breaching planning control claiming that unauthorised development is acceptable because it is 'sustainable' so therefore it is not expedient to take formal action because being sustainable overrides national and local policy. We therefore suggest that further consideration is given to this issue and that appropriate reference be made to the consideration of the presumption in the decision making process relating to enforcement cases.
3. This response represents the NPA's position on the issue of sustainable development. However, we would ideally have appreciated the opportunity to coordinate our response with parallel consultation responses on "Natural Resources Wales", "Sustaining a Living Wales" and the "Sustainable Development Bill". However, due to the lack of compatible deadlines for each consultation this has not been entirely possible.

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: ☐

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	David Whitehead	
Organisation	Welsh Ports Group	
Address	c/o British Ports Association 12 Carthusian Street London EC1M	
E-mail address	david.whitehead@britishports.org.uk	
Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" 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"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

Wales handles 60m tonnes of traffic annually, equivalent to 12% of the UK total as well as 2.9m passengers, representing 14% of the UK total. It is therefore a substantial industry, making a major contribution to the Welsh economy and dependent on a successful partnership with the Welsh government in the way it oversees the planning regime and makes transport spending decisions.

The consultation concentrates on land planning whereas ports will have a strong interest in land and marine planning. It is important therefore to put the consultation into a slightly wider context. So, for example, the UK Marine Policy Statement should also play a significant part in the "presumption in favour" as this makes a strong case for sustainable development along the coast with an equally strong emphasis on the need for successful businesses and commercial activity.

This is not just an issue of policy but a very practical consideration since ports depend on their infrastructure connections to handle the trade they generate along the main transport routes. This makes a real difference not only to the success of the ports themselves, but to reducing congestion and meeting environmental targets within the transport network.

The question refers to "strengthening national planning policy" though it is not clear how this strengthening is achieved beyond implementing sustainable development. We would interpret strengthening as a situation whereby those making planning decisions have the right resources to do so and are able to come to decisions quickly, efficiently and at minimum cost to applicants.

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy? [New section at 2.7]	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Please select	
<p>Additional comments:</p> <p>It would make little sense to operate a two tier system and for the sake of consistency, sustainable development principles should be introduced as quickly as possible where outdated or superseded policies are replaced. This would broaden the benefit to all those affected by the change.</p>			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
	<p>Additional comments:</p> <p>We have mentioned the fact that there is a UK Marine Policy Statement which will have a bearing on planning decisions and this is especially significant for ports. Another relevant national policy is the National Ports Policy Statement which applies to both England and Wales. It is significant that this statement includes trade forecasts up to 2030 which demonstrate a steady and significant increase in trade which may require new infrastructure. The planning system therefore is undergoing change as a result of various pressures of which implementing sustainable development principles is one aspect. Above all the planning system should promote growth and new investment. Ports also make a contribution to sustainable development in that shipping provides an environmentally friendly form of transport which has potential for greater use around the UK coast. One of the purposes of the various policy statements is to encourage greater use of coastal shipping and we would strongly encourage the Welsh government to ensure that ports and shipping as an important part of sustainable development are clearly factored into marine and terrestrial plans.</p>

Confidentiality
<p>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: <input type="checkbox"/></p>

Planning Policy Branch
 Planning Division
 Welsh Government
 Cathays Park
 CF10 3NQ

By e-mail: planconsultations-C@wales.gsi.gov.uk

24 May 2012

Dear Sirs,

Response to consultation on *Planning for Sustainability: the presumption in favour of sustainable development*

Thank you for the opportunity to comment on the Welsh Government's proposed policy for the presumption in favour of sustainable development.

To set the context for my response. I can do no better than to quote from the February 2012 UNEP Blue Planet prize synthesis paper "Environment and Development Challenges: The Imperative to Act" presented to the 12th UNEP Governing Council ¹ in the run-up to the Rio+20 meeting of the Convention on Biological Diversity:

"... civilization is faced with a perfect storm of problems driven by overpopulation, overconsumption by the rich, the use of environmentally malign technologies, and gross inequalities. These biophysical problems are interacting tightly with human governance systems, institutions, and civil societies that are now inadequate to deal with them.

The rapidly deteriorating biophysical situation ... is barely recognized by a global society infected by the irrational belief that physical economies can grow forever and disregarding the facts that the rich in developed and developing countries get richer and the poor are left behind. the perpetual growth myth is enthusiastically embraced by politicians and economists as an excuse to avoid tough decisions facing humanity. This myth promotes the impossible idea that indiscriminate economic growth is the cure for all the world's problems, while it is actually (as currently practiced) the disease that is at the root cause of our unsustainable global practices."

This message is not from some extreme green lobby group but is from twenty of the world's most respected scientists and economists, including Gro Harlem Brundtland (the Brundtland definition of sustainable development); James Hansen (Climate Scientist, Head of NASA Goddard Institute for Space Studies), Nick Stern (the Stern Report), Bob Watson (Defra Chief Scientific Advisor).

Additionally, it is critical to bear in mind that:

"The economy is a wholly owned subsidiary of the environment, not the reverse The economy is a subsystem of the finite biosphere that supports it" Herman E Daly, emeritus World Bank Senior Economist in Ecological economics and sustainable development).

¹ <http://www.af-info.or.jp/en/bpplareates/index.html>

Question 1: Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?

Without clear, unambiguous and irreversible qualification, no.

As stated, the implication is for a presumption in favour of development (albeit “sustainable”) *per se*, potentially regardless of wider environmental suitability and carrying capacity, and local societal wishes. This understanding is amplified by the widespread misuse and misunderstanding of the term “sustainable development” and its increasing translation into such phrases as “sustainable growth” and “sustainable jobs” – none of which appear to actually recognize genuine sustainability or planetary carrying capacity.

Welsh Government should instead be promulgating a policy that any and all development proposals must be truly environmentally sustainable, rather than a trade-off between environmental, societal and economic goals: *ie*, they must not compromise biodiversity, environmental structure and function or the planet’s carrying capacity any further regardless of their short-term economic benefits.

In addition, reasonable local societal considerations should not be over-ruled in favour of short-term economic gain except possibly in the genuine interests of overriding public importance.

Question 2 Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?

The answer to this depends entirely on the context and intent of the outdated policies and the direction of national planning policy.

If local policies favour environmentally sustainable decision making and national policy favours economic growth above all else, then absolutely not.

On the assumption that outdated policies are not necessarily environmentally sound, then quite possibly yes *if* national policy genuinely aspires toward true environmental sustainability; however, as indicated in my answer to question 1, it is far from convincing that this will be the case.

Question 3: I refer to the context setting on the previous page.

Please note that whilst I am content for my name to be made public as a respondent, I expressly request that my address, telephone number and e-mail is not to be released or in any way made public in conjunction with this consultation.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Gase Zullino". The signature is fluid and cursive, with the first name "Gase" and last name "Zullino" clearly distinguishable.

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	Rachel Lister	
Organisation	Sustrans Cymru	
Address	123 Bute Street, Cardiff Bay, CF10 5AD	
E-mail address	rachel.lister@sustrans.org.uk	
Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input 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 checked="" type="checkbox"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

Agree with introducing a clear statement on the presumption in favour of sustainable development although this should be supplemented with the importance of promoting sustainable transport. There is currently not enough emphasis in the Planning System to ensure that sustainable transport is a key consideration. It is essential that sustainable transport is also considered when plans are being drawn up and decisions being taken for the future. This is supported by the Welsh Government's White Paper on Active Travel (Wales) Bill.

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?	Yes	No
		<input checked="checked" type="checkbox"/>	<input type="checkbox"/>
	[New section at 2.7]	Please select	
Additional comments:			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
Additional comments:	
There is a need reinforce the importance of sustainable transport through Planning Policy Wales, and to ensure that it is a key consideration by the Welsh Government and Local Authorities.	

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: <input type="checkbox"/>

WG14377 Consultation
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Via Email: planconsultations-c@wales.gsi.gov.uk

25 May 2012

Dear Madam or Sir,

**Planning for Sustainability - The presumption in favour of sustainable development -
Comments by RenewableUK Cymru**

This document outlines RenewableUK's comments on the Planning for Sustainability consultation.

RenewableUK is the trade and professional body for the UK wind and marine renewables industries. Formed in 1978, and with just under 700 corporate members, RenewableUK is the leading renewable energy trade association in the UK. Wind has been the world's fastest growing renewable energy source for the last seven years, and this trend is expected to continue with falling costs of wind energy and the urgent international need to tackle CO₂ emissions to prevent climate change.

Please feel free to contact me on 020 7901 3024, or at Yana.Bosseva@RenewableUK.com should you require any additional information.

Yours sincerely

Yana Bosseva
Planning Advisor,
RenewableUK

Planning for Sustainability - The Presumption in Favour of Sustainable Development - Comments by RenewableUK Cymru

Introduction

RenewableUK Cymru welcomes the publication of the consultation on Planning for Sustainability – The Presumption in Favour of Sustainable Development. We are pleased to provide this response on behalf of the wind, wave and tidal energy industry.

RenewableUK (formerly BWEA) was established in 1978 and is the representative body for companies active in the UK wind, wave and tidal energy market. We represent all aspects of the renewables industry from manufacturers of the technology, through to developers and installers, legal and environmental specialists, construction and investment firms. We also have members in the education and training sector – helping to develop the skills needed for the future. As the largest renewable energy trade association in the UK, our membership has grown rapidly over recent years and now stands at just under 700 companies - representing the vast majority of all grid connected renewable energy projects currently installed.

In 2006, a branch of the organisation was established to champion the wind, wave and tidal renewable energy technologies in Wales with a focus of achieving the Welsh Assembly Government's 2010 renewable energy targets. This submission is made on behalf of RenewableUK Cymru Strategy Group. We would be pleased to clarify any issues raised in this paper and offer any further information which may be required.

Renewable Energy Context

All areas of the UK will need to significantly increase their levels of renewable energy generation. In addition, given the large number of power stations which will close and require replacement over the next fifteen years, it is essential that we take this opportunity to rebuild our energy infrastructure – at a local as well as national scale – using renewable and low carbon technologies wherever possible. The contribution of renewable energy to carbon reduction and climate change objectives; job creation and other local benefits; and the stabilising of energy prices should therefore be recognised, together with the need to meet our energy needs and preserve the environment. This is in line with the national policy context in Wales and the UK.

The UK is under a legal obligation under EU Directive 2009/28/EC of June 2009, and failure to deliver the renewable energy generation needed (i.e. 15% of energy consumption from renewable sources by 2020) could leave the UK exposed to infraction proceedings from the European Commission.

The renewable energy policy context in Wales is set by the introduction of TAN8 and the 2010 Energy Policy Statement, which radically increased the renewables target for 2025. This was confirmed by a written statement from the Welsh Assembly Government in June 2010. Planning Policy Wales 2011 also states that planning policy at all levels should facilitate delivery of both the Welsh Government's overall Energy Policy Statement and UK and European targets on renewable energy.

Responses to Consultation Questions

Question 1: Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?

RenewableUK Cymru strongly supports the Welsh Government's approach of introducing a presumption in favour of sustainable development, which also reinforces the need for an approved or adopted development plan to be in place, prepared with the objective of contributing to sustainable development. This is especially important in the absence of local renewable energy targets and is critical to encouraging local authorities to support the development of appropriate and sustainable energy projects.

Wales has the potential to deliver substantial amounts of low carbon and renewable energy to meet its own and the UK's energy needs and energy policy goals. The presumption in favour of sustainable development will help facilitate the much needed investment and subsequent deployment of the sustainable energy infrastructure needed to ensure security of supply.

It will also reduce the volatility of energy costs for the consumer and over time lead to an overall reduction in carbon intensity of the energy sector. Local authorities should also be expected to contribute to the delivery of the UK's energy policy goals and be incentivised to do so. This is in line with the recently published report by the Committee on Climate Change¹ on how local authorities can use their powers to reduce carbon emissions, which amongst other things calls on local planning authorities to:

'use their plan making and development management/building control functions to: ... work with developers to make renewable energy projects acceptable to local communities...'

In terms of the proposed new wording for Planning Policy Wales (PPW), RenewableUK Cymru supports the reference to national policy, but we would also suggest that in addition to Wales' national policy, certain UK-wide policy and guidance may also be helpfully included. In our view the [UK] Overarching National Policy Statement for Energy (EN-1)² and the [UK] National Policy Statement for Renewable Energy Infrastructure (EN-3)³ would be particularly relevant, as they set out a range of useful information about different technologies as well as the urgent national need for

¹ How Local Authorities Can Reduce Emissions and Manage Climate Risks, at: <http://www.theccc.org.uk/reports/local-authorities>

² National Policy Statement: [EN-1 Overarching Energy NPS](#)

all forms of low carbon and renewable energy infrastructure.

Additionally, we support the current wording of Section 4.4 which refers to *“the need to tackle the causes of climate change by moving towards a low carbon economy. This includes facilitating development that reduces emissions of greenhouse gases in a sustainable manner, provides for renewable and low carbon energy sources at all scales and facilitates low and zero carbon developments.”* It is important that the reference to renewable energy and its link to climate change mitigation remains in any revision of PPW, especially if the presumption in favour of sustainable development proceeds.

Question 2: Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?

RenewableUK Cymru agrees with this statement and believes that local planning authorities should be required to give decreasing weight to such policies in favour of other material considerations such as national planning policy. Given that urgent action is needed to deliver our international renewable energy obligations and climate change targets, it is particularly important that development management decisions are taken in accordance with national planning policy where the development plan is outdated or superseded.

However, in practice this would be difficult to monitor or achieve, as councillors will normally be under pressure to support the local development plan (even if it is out of date). Applying the presumption in favour of sustainable development more strongly where there are out of date plans, would act as a further incentive for local planning authorities to ensure they have an up to date local development plan.

RenewableUK Cymru generally supports the suggestions for cross-reference and re-organisation, although we look forward to seeing the detailed wording before being able to confirm full support. Additionally, it is very important to recognise that as well as the need to plan for climate change it is vitally important to ensure continued security of the nation's energy supplies.

It is also worth noting that the UK Government has gone further in England in terms of confirming that if there is an out of date development plan, then an individual application should be consented, except in very exceptional circumstances. The Welsh Government should consider adopting such an approach as this may act as an added incentive to local planning authorities to ensure they have an up to date development plan.

Additionally, it should be made clear that for National Strategic Infrastructure Projects (NSIP) projects in particular, the National Policy Statements (NPS) provide the key policy framework and

³ National Policy Statement: [EN-3 Renewable Energy Infrastructure NPS](#)

this should be recognised in PPW.

Question 3: We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.

In RenewableUK Cymru's view, the principle of sustainable development needs to be strengthened to emphasise the need to protect the global environment from climate change by reducing reliance on fossil fuels. It is also crucial how progress towards the objectives and outcomes will be measured. In terms of monitoring and delivery, there should be an explicit reference to the reduction of emissions contributing to climate change.

There needs to be a link back to indicators on renewable energy generation capacity, the percentage of electricity that is generated from renewable sources and the level of greenhouse gas emissions from energy production and use per capita. Below are three indicators which were suggested by RenewableUK Cymru to be included as Statutory Performance Indicators for Welsh Local Authorities from April 2012 as part of a recent Welsh Government consultation:

- **Renewable energy capacity**
This indicator would allow local authorities to review the success or otherwise of their renewable energy policies. This has a direct impact on the low-carbon energy agenda as listed in the Programme for Government.
- **The percentage of electricity that is generated from renewable sources.**
This indicator would allow the more specific monitoring of the percentage of electricity generated from renewables, and is taken directly from the Programme for Government. It has a direct impact on greenhouse gas emissions savings and climate change.
- **The level of greenhouse gas emissions from energy production and use per capita**
This indicator measures the total, the per capita emissions of greenhouse gases from energy production and use that have a direct impact on climate change.

The presumption in favour of sustainable development should also cover development associated with sustainable development. For example, grid and transport infrastructure which is necessary to facilitate the delivering of renewable energy projects such as onshore wind energy.

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	Dr David Parker	
Organisation	The Countryside Council for Wales	
Address	Maes y Ffynnon, Ffordd Penrhos. BANGOR, Gwynedd. LL57 2DW	
E-mail address	d.parker@ccw.gov.uk	
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"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

- We agree with the approach of strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development, where it is understood that its delivery should be consistent with the Welsh Government's sustainability principles (as set out in Section 4.3 of PPW (edition 4, 2011)) and the broad approach to decision making set out in the bullets of paragraph 5 of this consultation document. However we recommend that the reference to `balance` in paragraph 4.2.4 is replaced with `integrate` to move the process towards identifying win-win solutions rather than to trade-offs between objectives.
- We recognise that the consultation is about the Local Development Plans but suggest that the presumption in favour could be extended to include not only LDPs but other national and regional level plans that also have a key role in influencing sustainable development by providing a national context for LDP and casework decision making e.g. transport plans, spatial plan, waste plans etc.
- We fully support the statements that development plans which have undergone (and incorporated) Strategic Environmental Assessment (SEA), Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) provide the basis for rational and consistent sustainable decisions (paragraph 14).
- The definition of sustainable development may need to be refined and updated to reflect the outcome of parallel discussions in relation to the proposed Sustainable Development Bill and the Sustaining a Living Wales consultation and subsequent Environment Bill.
- The proposed National Resource Management Plans (NRMP) in Living Wales will, if introduced, contribute significantly towards SD by strategically directing the location of grey infrastructure, and where protection and enhancement in green infrastructure is required.
- The Department for Communities and Local Government National Planning Policy Framework (March 2012) has caveats to the effect that a presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered. A similar statement should be introduced into PPW.

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy?	Yes	No
		<input checked="checked" type="checkbox"/>	<input type="checkbox"/>
	[New section at 2.7]	Please select	
<p>Additional comments:</p> <ul style="list-style-type: none"> We assume that the terms ‘outdated’ and ‘superseded’ are in the context of plans which do not reflect the Welsh Government sustainable development remit but feel that these terms will need to be clearly defined and clear tests set out to define when policies are outdated to provide robust guidance and reduce opportunities for challenge. A key issue will be the need for guidance to specify that a presumption in favour of sustainable development applies only where benefits outweigh harm. We support an approach which encourages planning authorities to give decreasing weight on outdated plan policies in favour of other material considerations, notably sustainable development but suggest that any additional text should include a cross reference (e.g. by footnote) to paragraphs 3.1.2 to 3.1.4 of PPW to clarify what may constitute a material consideration. We think it important, in light of the proposals here, to point out that paragraph 1.1.4 of Planning Policy Wales (PPW) (2011, Edition 4) clarifies that national planning policy comprises of PPW, the Technical Advice Notes (TANs), and circulars and policy clarification letters but that a number of the current Technical Advice Notes (TANs) were prepared prior to the Government of Wales Act 1998, and therefore not prepared in light of the Welsh Government’s commitment to sustainable development. Should the text in the final sentence in proposed new paragraph 2.7.1 be included in PPW, the Welsh Government should satisfy itself that the TANs which pre-date the Government’s commitment to sustainable development do facilitate sustainable development through the planning system. The undertaking of SEA and HRA does not, in itself mean that a plan or programme is ‘sustainable’ or that the policies contained within that plan promote only sustainable development. The aim of the SEA process is to integrate environmental concerns into plans for the purposes of promoting sustainable development. The findings and recommendations resulting from the SEA process must be taken into account in the final plan and its policies. CCW would therefore suggest that revisions to PPW make more explicit that the outcomes of the SEA and HRA processes must be fully taken into account in plans/programmes. Further there needs to be guidance and mechanisms for the examination and SEA of plans and strategies that provide a framework for LDPs and that cover more than one planning making local planning authority. 			

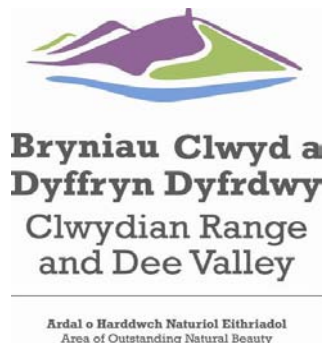
Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
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Additional comments:

1. We would highlight the importance of:
 - Early engagement and pre application discussions with developers not only on individual development proposals but also, where possible, on the development of their strategic portfolio in Wales.
 - Regular liaison meetings between statutory consultees and Local Planning Authorities.
2. We offer the following more specific points:
 - Paragraph 14 in the consultation document refers to 'appropriate assessment'. Appropriate Assessment is only one stage of the wider Habitats Regulations or Article 6 (Habitats Directive) assessment process and it is important that PPW refers to the whole process not just one part of it.
 - Footnote 11 should refer to the Conservation of Habitats and Species Regulations 2010 (as amended).
 - It is disappointing that no reference has been made to the EIA process. CCW welcomes and supports the intention to encourage/enable sustainability at the strategic (plan) stage of the planning process however; the undertaking of SEA/HRA at plan level does not negate the need for EIA/HRA at project level. EIA/HRA at project level offers developers the opportunity to consider specific issues relating to social and environmental factors and the potential role of EIA to enable sustainable development should not be overlooked.
 - Links need to be made to the Natural Resource Management Planning process set out in the Sustaining a Living Wales green paper. We also refer you to comments in the recent response from the Countryside Council for Wales on Planning Policy Wales Chapter 7 - Supporting the Economy (Consultation).
 - There is a tendency within the document to talk about 'sustainable development' as if this is always straightforward. This is not always the case. A development that is considered 'sustainable development' at a national level or regional level could be considered a problem at the development stage. It may help if the proposed text for PPW recognised that there is sometimes conflict in delivering sustainable development on the ground and suggested ways or gave direction in resolving this. If there was scope for a decision support tool and training for officers and members this may also help.

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: ☐



Eich cyf/Your ref:

Ein cyf/Our ref:

Dyddiad/Date **25 May 2012**Rhif union/Direct dial **01352 810614**E-bost/E-mail **tony.hughes@denbighshire.gov.uk**

WG14377 Consultation
Planning Division
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

Dear Sir or Madam

WELSH GOVERNMENT CONSULTATION: PLANNING FOR SUSTAINABILITY - THE PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

Thank you for seeking the views of the Joint Advisory Committee (JAC) for the Clwydian Range and Dee Valley AONB on this consultation document.

The following observations are submitted on behalf of the committee following consultation with the Chair of the JAC.

"The JAC supports the overall objective to facilitate and promote sustainable development through the planning system, and welcomes reaffirmation of the importance of the plan-led approach which comprises locally determined and driven development plans which are up to date.

National planning policy in respect of AONB's is a clear statement of intent which is supported by the JAC (see Chapters 4 and 5 of Planning Policy Wales, notably paragraphs 4.4.2 and 4.10.10 and sections 5.3 - 5.4). The JAC assumes that the introduction of a specific presumption in favour of sustainable development is not intended to undermine this existing policy. In addition, given the clarity of national policy in relation to AONB's, the JAC has no objection to this being given greater weight where local development plans are 'outdated or superseded'. However, the JAC would suggest that additional clarification in the policy statement to help determine when a development plan is outdated or superseded would be helpful."

Yours faithfully,

Tony Hughes
For the Clwydian Range and Dee Valley AONB Joint Advisory Committee

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Friends of the Earth Cymru's response to the consultation on the introduction of the presumption in favour of sustainable development

1. Summary

The consultation on the introduction of a presumption in favour of sustainable development should not make a pre-emptive decision on the introduction of a presumption, but rather consider whether a presumption in favour of development is a policy appropriate for Welsh planning policy and the Welsh national context. Friends of the Earth Cymru does not consider that a presumption in favour of development is consistent with a plan-led sustainable development approach in Wales.

A presumption in favour of development must be carefully worded in order not to detract from the plan-led system. A presumption may either be a guide to 'normal practice' or something that regulates the burden of proof. The decision-maker makes a judgement on an application and the local plan is of primary importance in that decision in law. However there is the discretion allowed by the phrase 'other material considerations'. In any given case a presumption in favour of development may operate as the 'other material considerations', and therefore provide a means to override the local plan. Without a third party (or community) right of appeal to provide a fair and equal safeguard, developers may try to use a presumption in favour of development to apply speculatively, or to appeal refusals on the basis that the presumption should override other considerations. If the presumption in favour of sustainable development is clearly defined, it should operate as a presumption *against* unsustainable development.

2. The 'presumption in favour' in England

The introduction of the presumption in favour of 'sustainable development' was hotly contested in England. This is because unless 'sustainable development' is clearly defined, and the refusal of *unsustainable development* is clearly set out as a limit on the presumption, the balance is tipped further in favour of approval than it is already - as most planning applications are approved as is shown by the statistics. Greater weight is therefore given to broad brush development (quantity), and not to the quality outcomes demanded by sustainable development. Before its eventual publication, Friends of the Earth had already gathered information on a case in England where the presumption in favour of 'sustainable development' had been used to override a local plan's town centre policy to approve a retail development in an out of town location.

3. The risks of a 'presumption in favour'

A presumption in favour of development outside the plan would be a sweeping measure which would strongly encourage speculation. While the best private sector operators want to work with the planning process, others will see this measure as an opportunity to submit speculative applications where they think they may be able to make the case that the presumption in favour of development should grant them approval. Since it will always be possible to construct a case that a plan fails to provide enough clarity about a particular area (white land is an example of this) then the plan process will be subject to a large increase in speculative applications, in particular from those land owners who will benefit from permission.

This in effect undermines the whole value of the plan-led system which is only effective if its policy outcomes are understood to carry significant weight. The 'presumption in favour' is bound even under the most conservative estimates to increase development which is approved outside the plan and therefore not

subject to any of the participative community or the social and environmental policy tests which the plan contains.

Careful consideration needs to be given as to how increases in number of approvals outside the plan can be squared with the need to assess growth in an area strategically so that both impacts and infrastructure needs can be properly assessed and met. There are cases on-going in Wales which demonstrate the conflict here – where sewerage systems are not able to cope with the increase in development and yet the developments are going ahead regardless with environmental and social costs the result, together with a lack of responsibility as to who will deal with the problems.

4. Public participation and the public interest

The ‘presumption’ also bypasses the community participation tests of the local development plan. Approval outside the plan will be controversial for many, but more importantly it will also lead many to question what the value is of participation in the local plan-making process if more decisions are made contrary to plan policy. It may be that the introduction of this policy will increase disaffection at time when the legitimacy of planning decisions is increasingly fragile, and work against current attempts in Wales to increase trust in the planning process.

The question of interest here is also key to the introduction of a new policy. A developer’s priorities are not synonymous with the public interest and must not be confused as such. It must be clear that while sustainable development that does actually embody the principles set out in PPW paragraph 4.1.2 should go ahead, development that does not should be refused. Changing the nature and format of development to function in a different way in relation to the natural environment and society will require some more radical thinking. New developments in Wales, including those being submitted now, particularly housing developments, are in the main neither radical, nor even up to the mark of German or Danish best practice such as Passivhaus¹. Thousands of houses have been built to Passivhaus standards since the standard came in in 1996 in Germany as reported in *Inside Housing*. More recently the following comment was made in the same magazine: “Andrew Eagles, managing director of consultancy Sustainable Homes, said: ‘There are less than 100 Passivhaus-accredited schemes in the UK...’”². In Freiburg, Germany, standards for development were written into the contracts to ensure that developers delivered the social and environmental goods, including renewable energy, green infrastructure, safe spaces for children and a pedestrian rather than car-oriented layout.

5. Outcomes of planning policy

Evidence based research conducted by the Royal Commission on Environmental Pollution (26th Report, 2007) concluded that: “it is very difficult to design a ... local policy that is environmentally sustainable if it is driven by a national policy whose environmental impacts are unknown or unsustainable.”(paragraph 6.73)³. A presumption in favour of development could be considered such a national policy.

There is a positive and essential influence that national targets have on driving standards and innovation forward e.g. in delivering renewable energy, recycling brownfield land, and driving changes in building construction. For instance, waste recycling has very effectively used targets to generate a step change. As BRE have noted “The UK Low Carbon Environmental Goods and Services Market is the sixth largest in the world and grew by 4.3 per cent in 2009. It is now worth £112 billion, employing over 900,000 people.”⁴

The Foresight Land Use Futures project (2010) notes that “Future change in the global economy will also influence land use. For example, rising global demand for food and changing commodity prices will affect the amount of land that is brought into food production.” The Welsh Government must consider the

¹ First UK homes meet German eco-standard 2009, *Inside Housing* magazine, <http://www.insidehousing.co.uk/ihstory.aspx?storycode=6502423>

² <http://www.insidehousing.co.uk/6520823.article>

³ Royal Commission on Environmental Pollution, *The Urban Environment*, 2007 www.official-documents.gov.uk/document/cm70/7009/7009.pdf

⁴ BRE, 2011, www.breeam.org.uk

<http://www.environment-agency.gov.uk/business/sectors/106024.aspx>

possible effects of speculative development on land-use. Agricultural land is at risk of flooding and salinization, as well as development. Over one tenth of land in England and Wales is at risk of flooding from rivers or the sea (Environment Agency, 2011).

It is also crucial that this proposed policy change does not pre-empt forthcoming legislation that has been proposed in the programme for government, namely the Sustainable Development Bill and Planning Bill. The Sustainable Development Bill is expected to set the overarching definition of sustainable development that public bodies in Wales will apply in their policies and decisions, as well as procedures for decision-making in accordance with the aim of achieving sustainable development. Setting a presumption in favour of sustainable development at this stage could send mixed messages to planning authorities in Wales.

Likewise, the Independent Advisory Group on Planning have been tasked by the Welsh Government with reviewing the planning system and finding a way ahead for planning reform that will make the system more transparent and accessible⁵. We would hope that their considerations and recommendations are taken into account, and emphasise that public participation and confidence in the planning system could be undermined by a presumption in favour of development.

6. The proposed wording

The commentary below is provided on the suggested wording, as well as suggested changes.

- 4.2.1 Sustainable development in the planning system means that social, economic and environmental issues are considered at the same time when plans are being drawn up and decisions are being taken for the future.
- 4.2.2 The planning system has a fundamental role in delivering sustainable development. It must provide for homes, infrastructure, investment and jobs in a way which is consistent with our sustainability principles (see section 4.3) and our key policy objectives (see section4.4).

Suggested changes

- 4.2.1 Sustainable development in the planning system means that **integrated** social, economic and environmental **objectives in line with the principles set out here (section 4.3)** ~~are considered~~ **inform** plans ~~are being drawn up~~ and decisions, **ensuring that these** are being taken for the future.
- 4.2.2 The planning system has a fundamental role in delivering sustainable development. It must provide for homes, infrastructure, investment and jobs in a way which **delivers on** ~~is consistent with~~ our sustainability principles (see section 4.3) and our key policy objectives (see section 4.4), **and the urgent need to tackle climate change.**

The suggested changes clarify the integrated nature of sustainable development and links the delivery of the development we need with the secure and resilient future that is consistent with the principles set out in PPW 2011.

- 4.2.3 Local planning authorities should exercise their planning functions with the objective of contributing to the achievement of sustainable development. There should be a presumption in favour of developments that enhance the economic, social and environmental well-being of people and communities now and over the long term (sustainable development) (see Section 4.1).

Suggested changes

⁵ <http://wales.gov.uk/newsroom/planning/2011/111003advisorygroup/?lang=en>

4.2.3 Local planning authorities should exercise their planning functions with the objective of contributing to the achievement of sustainable development. ~~There should be a presumption in favour of developments that enhance the economic, social and environmental well-being of people and communities now and over the long term (sustainable development) (see Section 4.1).~~

A presumption in favour of ‘sustainable development’ is not appropriate to cover all the planning functions of the local authority. A ‘presumption in favour’ risks putting greater emphasis on development rather than quality and appropriateness. The right formulation is that ‘development should be approved if it meets our planning objectives and refused if it can be shown to be compromising them’.

The Foresight Report’s Executive Summary makes clear that “*there is a risk that incremental decision-making on individual project and land choices will continue to create unintended consequences and unsustainable outcomes, some of which may be irreversible.*” (p32). The wording on the presumption in favour of sustainable development in the above paragraph makes it likely that this risk will be realised.

4.2.4 The presumption in favour of sustainable development is expressed through the key policy objectives set out at section 4.4 below. It will be for the decision-maker to balance and reconcile these key policy objectives when planning for their area (see Chapter 2) and in taking decisions on individual applications (see Chapter 3).

Suggested changes

4.2.4X The ~~presumption in favour of~~ **planning objectives of** sustainable development ~~is~~ **are** expressed through the key policy objectives set out at section 4.4 below. It will be for the decision-maker to ~~balance and reconcile~~ ensure these key policy objectives **are met** when planning for their area (see Chapter 2) and in taking decisions on individual applications (see Chapter 3).

The decision-maker should ensure that the integrated policy objectives are met as far as possible. Balance is very close to trade-off, and evidence that is available on the outcomes of the land-use planning system show that it is largely weighted in favour of development. For sustainable development (as defined in PPW 2011) to be implemented it must be clearly and consistently defined. As Owens and Cowell (2011) point out in Land and Limits there is a “*fundamental dislocation between competing interpretations of what it means for development to be sustainable*” (p41).

4.2.5 A plan-led approach is the most effective way to secure the presumption in favour of sustainable development at the local level. Development Plans, when adopted (or approved by the Welsh Ministers), provide the basis for this presumption to be exercised when determining individual applications (see para 2.7[new]).

Suggested changes

4.2.5 A plan-led approach is the most effective way to secure ~~the presumption in favour of~~ sustainable development at the local level. Development Plans, when adopted (or approved by the Welsh Ministers), provide the basis for ~~this presumption to be exercised when~~ determining individual applications (see para 2.7[new]).

As before, a plan-led system needs to clearly set out the pathway to achieving sustainable development.

Contact

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CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name	Sue Evans, Director Policy, Cla Wales	
Organisation	CLA	
Address	<p>Unit 8 Broadaxe Business Park Presteigne Powys LD8 2LA</p> <p>The CLA represents over 35,000 members in England and Wales. Our members both live and work in rural areas; they operate a wide range of businesses including agricultural, tourism and commercial ventures – at the last count the CLA represents some 250 different types of rural businesses. They also manage and/or own a quarter to a third of all heritage, so that the CLA is by far the largest heritage-owner stakeholder group.</p> <p>The quality of the countryside is of vital importance to our members and frequently brings them into contact with the planning system. Most planning objectives for the countryside - economic, social and environmental - rely on landowners and managers for their success, and thus the CLA has a special focus on such matters.</p> <p>The rural economy makes an important contribution to the national economy: land-based businesses, within the rural economy, provide the environmental and recreational benefits in the countryside that are valued by the population as a whole. The best security for rural areas is a successful and sustainable rural economy allied to a flexible, integrated and sustainable planning system.</p> <p>We have pleasure in setting out our response to the consultation below.</p>	
E-mail address	sue.evans@cla.org.uk	
Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" 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"/>

		Yes	No
Q1	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	[New section 4.2]	Please select	

Additional comments:

There is a culture that the role of rural planning officers is to stop all rural development. A presumption in favour of sustainable development would assist economic recovery. Many of our members comment that planning restrictions create more anxiety and take up far too much time, detracting from the real and important role of managing their business.

CLA Wales would like a "can-do" approach to be developed, led by the Planning Authorities and their officers. We would like to see them working with those who want to submit a planning application to find the right answer to their development needs. We need more innovative and technical solutions to development requirements.

CLA Wales believes that in order to achieve a change in culture from a presumption against planning in rural areas to a presumption in favour of sustainable development, retraining of Local Authority staff will be required. We propose a carrot and stick approach so that the training will encourage good decisions and the threat of investigation by an Ombudsman would provide added incentive.

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy? [New section at 2.7]	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Please select	
<p>Additional comments:</p> <p>CLA Wales members are currently frustrated by the planning system. LDP's are often out of date and are an obstruction to Welsh Planning Policy and TAN's being implemented. We very strongly support the suggestion above and are considering a proposal of yet more radical changes in scrapping LDP's altogether.</p>			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
	<p>Additional comments:</p> <p>CLA Wales is currently considering potentially radical changes which might be made to improve the Welsh Planning system. We are going to hold two think-tank groups with some of our professional members at the beginning of July to explore this further.</p> <p>One of the things that we will be looking at is the possibility of scrapping LDP's. Development sites and enterprise zones, etc could be entered onto the Welsh Spacial Plan and additional information provided on pop-ups available when the cursor rests on parts of the map. This would result in Welsh Policy and TAN being implemented immediately.</p> <p>The Planning Inspectorate system in Wales is highly regarded in general and we would like to see a planning service delivering outcomes of the same quality with a fast and effective service. CLA Wales believes that having an ombudsman service looking into Local Authorities and individual planning officers' preformance and decisions would produce a more consistent and effective planning system.</p>

Confidentiality

CONSULTATION FORM

Planning for Sustainability The presumption in favour of sustainable development		
2 March – 25 May 2012		
Name		
Organisation		
Address		
E-mail address		
Type (please select one from the following)	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" 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 with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development? [New section 4.2]	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
		Please select	

Additional comments:

In principle, this is an evolution of the existing presumption in favour of development that accords with a development plan, but contains weaknesses that the RTPI Cymru Policy and Research Forum feel may result in unintended consequences. A presumption-type statement should be clear and unambiguous. As currently phrased, we feel the presumption does not add anything useful for decision-makers and lacks the essential clarity that a presumption should bring to the task of decision-making.

It is worth revisiting why a presumption-type statement was initially called for in the National Assembly Sustainability Committee Inquiry into the Planning System in Wales (2011). Various evidence was provided on the multiple considerations that the planning system had to take into account and had to factor into often carefully balanced decisions. It was suggested that a presumption would provide a 'stance' or position on any proposal to help resolve finely balanced decisions. Recommendations 7 and 8 of the report (<http://www.cynulliadcymru.org/en/cr-ld8373-e.pdf>) sets this out along with paragraphs 49-52 which provide some context.

The consultation paper makes the point that the best way to ensure that sustainable planning decisions are taken is to ensure that an up-to-date development plan is in place. However, this does place an emphasis on effective plan-making to deliver sustainable development, requiring an up-to-date planning framework and the principle that decisions are in accordance with the plan. A presumption needs to be useful in cases where plans may have conflicting or contradictory implications for a decision, or where a simple determination of being in accordance with a plan is not possible. It goes back to the principle of what a presumption is and the need for it to be clear in order to help resolve difficult decisions.

The proposed presumption in favour of sustainable development has a degree of ambiguity and does not provide a sufficiently clear position from which to approach decisions which could be damaging to development plans and their status in decision making and hence do more harm than good to the achievement of sustainable development.

Examples of ambiguity in relation to the presumption:

- We believe the term integration is the correct approach to the 3 strands yet the word balance appears in 4.2.4. This affects how one regards the Key Policy Objectives in Planning Policy Wales. Are they to be integrated or balanced or reconciled?
- The second part of 4.2.3 is considered unhelpful as it is currently written. Instead, sustainable development would be better defined in full as set out in paragraph 4 of the consultation document and for further clarity it should reference the plan-led approach as suggested in 4.2.5 (page 9).

Q2	Do you agree that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations such as national planning policy? [New section at 2.7]	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
			Please select
<p>Additional comments:</p> <p>There needs to be a clear distinction made between statute and policy (paragraph 20). The introduction of further clarification in Planning Policy Wales on the issue of development plans does not alter the statutory duty on decision-makers under s.38(6) of the Planning and Compulsory Purchase Act 2004. Some clarification is needed on the issue of national policy superseding statutory development plans.</p> <p>What the consultation paper appears to be really concerned about are areas where there is no adopted development plan in place or where policies in the adopted plan are outdated or have been superseded. Adopted and approved Unitary Development Plans and Local Development Plans (paragraph 24) "provide a robust basis for planning decisions for sustainable development to be made at the local level" - Earlier plans (paragraph 25) "may offer a lesser degree of certainty". The second part of the proposals (B) sets out that where development policies are outdated or superseded Local Planning Authorities should give them decreasing weight in favour of other material considerations such as national planning policies. The RTPI Cymru Policy and Research Forum has expressed concern that this is an oversimplification of the process. To a certain extent this approach already exists through the decision making process, however, in practice, the process of identifying and weighing up factors in decisions is complex and needs to be dealt with on a case-by-case basis. Local Planning Authorities will look to the policies in the development plan, plus supplementary planning guidance and national planning policy and other matters which might be material. They will take a view on relevance and the degree to which any of these matters are up-to-date or not and are superseded or not. This could equally apply to national policy.</p> <p>There is a need to clarify how a presumption in favour of sustainable development sits alongside the presumption in favour of development in accordance with the development plan. This is especially the case where proposals for development may be 'sustainable' but where they are not in accordance with a development plan or where the development plan pulls in different directions for a particular proposal.</p> <p>If the primary concern of this consultation is that only development that is sustainable should be granted planning permission, then maybe turning the presumption on its head would be an alternative option. This might be expressed as: 'Development that cannot demonstrate the principles expressed in paragraph X [setting out sustainable development principles for the planning system] will not be permitted.'</p> <p>To conclude we feel that the presumption in favour of sustainable development as it stands risks not adding anything to the process and potentially confusing matters further.</p>			

Q3	We have asked two specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response form to express your views.
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Additional comments:

Please find set out below comments in relation to specific paragraphs etc.

- Paragraph 16, the use of "should" for plans and "may" for decisions. Why is there a difference?
- The emphasis in the consultation is on the purpose of planning as bringing forward land for development and does not refer to protection of valuable land resources (4.2.2).
- In 4.2.5 we suggest removing the words "the presumption in favour of".
- With regards to the definition of sustainable development, it is widely recognised that sustainable development is a term that means different things to different people. The definition for Wales is set out in "One Wales: One Planet"; and the definition in Planning Policy Wales provides a definition for planning decisions. We do not intend to comment on the definition as part of this response and would not support further attempts at defining and refining a definition of sustainable development as it applies to planning at this stage.
- 4.2 (page 8) and thereafter 4.2.1, 4.2.2, 4.2.3, 4.2.4 and 4.2.5 might be clearer if it referred to "sustainable land use".

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: ☐