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## Consultation – summary of responses

### Planning for Sustainability

#### A Presumption in Favour of Sustainable Development

Date of issue: **October 2012**

## Overview

This document outlines a summary 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.

### **This summary report is published in electronic form only.**

Electronic copies of all consultation responses to this consultation can be found on the Welsh Government website.

<http://wales.gov.uk/consultations/planning/planforsusconsultation>

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## **A BACKGROUND**

1. On 2 March 2012 we consulted on proposals to strengthen *Planning Policy Wales* and introduce a clear statement on the presumption in favour of sustainable development within the planning system. The consultation was open for 12 weeks and ended on 25 May 2012. A wide range of stakeholders were invited to respond to the consultation and the consultation documents were made available on our website.
2. This consultation summary report details the responses to this consultation and the next steps to be taken.

### **Policy background**

3. The Welsh Government has a legal obligation to have a scheme setting out how we will promote sustainable development and we have embarked on an ambitious and long-term programme of policy initiatives to help us achieve our vision of a sustainable Wales, which we set out in our Scheme, *One Wales: One Planet*. This commitment is based upon our sustainable development duty under Section 79 of the Government of Wales Act 2006.
4. We have concerns, in light of our commitment to promote sustainable development in Wales, that in areas where there is no development plan in place or where policies in adopted plans are outdated or have been superseded by other material considerations, there is a lesser degree of certainty in facilitating sustainable development through the planning system at the local level.
5. The proposed amendments to national planning policy seek to strengthen how sustainable development is delivered within the planning system in Wales. National planning policy is considered to provide a robust basis for determining individual planning applications where there is no adopted development plan or where policies within an adopted development plan are superseded or outdated within the context of national planning policy.

6. In January 2011 the National Assembly for Wales Sustainability Committee reported on its *Inquiry into Planning in Wales*<sup>1</sup>. It 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.
7. 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.
8. The aims of the changes were to strengthen *Planning Policy Wales* and introduce a clear statement on the presumption in favour of sustainable development.

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<sup>1</sup> Inquiry into Planning in Wales – January 2011, National Assembly for Wales, Sustainability Committee (2011) See here [http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-assembly-publications-committee-inquiries/research-completed\\_inquiries.htm#sustainabilitycompleted](http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-assembly-publications-committee-inquiries/research-completed_inquiries.htm#sustainabilitycompleted)

## B DETAILS OF RESPONSES

9. We received 87 responses to the consultation. We thank all those who responded.
10. Respondents were asked to assign themselves to one of seven broad respondent categories. Table 1 below shows the breakdown of respondents. A full list can be found in Appendix A. Copies of the consultation responses received are published in their original form on the consultation pages of our website. These can be found here: <http://wales.gov.uk/consultations/planning>.

<b>Table 1: Breakdown of respondents</b>		
<b>Category</b>	<b>Number</b>	<b>% of total</b>
Businesses	15	17
Planning Consultants	0	0
Local Authorities (including National Park Authorities)	16	18
Government Agencies/Other Public Sector	8	9
Professional Bodies/Interest Groups	19	22
Voluntary sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	12	14
Other (other groups not listed above)	17	20
<b>Total</b>	<b>87</b>	

11. The consultation document posed two specific questions and one general question inviting the views of stakeholders. A statistical overview is presented in Annex B.

**Table 2: Consultation questions**

<b>Q1</b>	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?
<b>Q2</b>	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?
<b>Q3</b>	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.

## C KEY THEMES

12. Several key themes emerged from the written responses, many of which were picked up in the responses to both Question 1 and 2. Further analysis of the responses to each question can be found in Section D. (Note: R denotes the respondent reference number – see Appendix A for a full list of respondents).

### **Role of the development plan**

13. Respondents were supportive of the continued commitment to the plan-led system and the delivery of Local Development Plans (LDPs), but concerns were raised as to the coverage of LDPs in Wales. Respondents were concerned that the changes proposed undermined the legal basis for applications to be determined in accordance with the adopted development plan. There was recognition that this needed to be clarified in the final wording in *Planning Policy Wales* (PPW).

*“A presumption in favour of development must be carefully worded in order not to detract from the plan-led system” (R69)*

### **Definition of sustainable development**

14. Respondents recognised the difficulties in defining sustainable development and some sought a clearer definition of what sustainable development means for the planning system to the one that was proposed.

*“The statement should be supported with a clear definition of sustainable development which needs to be more focussed in land use planning terms and provide greater clarity of terminology” (R17)*

*“...defining SD is by its nature difficult, and it is not possible to be prescriptive. As such, it is very difficult to pinpoint exactly what SD should be and giving a presumption in its favour is open to some interpretation, thus reducing transparency, assurance and public accountability” (R26)*



## **Effect of the proposed changes**

15. Respondents overwhelmingly welcomed the need to strengthen sustainable development within national planning policy. However, some considered that the proposed changes reflected current practice and therefore did not need specific explanation within national planning policy.

*“...the statement simply reinforces current practice and it is not clear what the purpose of the proposed amendment is...” (R17)*

## **Role of the presumption where there is an adopted development plan**

16. There were differences in opinion on how the statement applied in situations where there is an adopted development plan in place, clarification on this aspect in the revised policy wording was suggested.

*“For these current plans there seems no need to introduce a presumption in favour of sustainable development” (R17)*

*“The presumption in favour will ensure that where there is a local planning policy vacuum, sustainable development will not be hindered thus ensuring that economic growth in Wales continues” (R37)*

*“The effect of the proposed change to PPW giving a presumption in favour of sustainable development will cause difficulties even against up to date plans. Developers could seek to argue that a development that does not accord with the development plan is nevertheless sustainable and should therefore be allowed” (R13)*

## **Integration and balancing sustainable development**

17. Many respondents posed questions with regards to the terminology used in the existing PPW and the proposed changes. This focused on whether planning for sustainable development should integrate or balance environmental, social and economic aspects.

*“..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” (R61)*

*“Guidance should be given to ensure that planning authorities balance the relationship between the three pillars of sustainability appropriately” (R1)*

*“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” (R53)*

### **Economic, environmental and social pillars**

18. Respondents across different sectors sought a ‘rebalancing’ of the environmental, social and economic pillars of sustainable development, with respondents arguing that one pillar of sustainable development needed further recognition in the proposed changes. However, there was no overall consensus on which element was considered stronger or weaker than the other.

*“Agree with approach but definition skewed towards environmental/social and not balanced as it should be with recognition of economic wellbeing” (R47)*

*“It is acknowledged that environmental and ecological considerations are often thought to outweigh economic and social ones in the planning process”*

*“...the agreed definition of sustainable development must recognise that the economic and social aspects of sustainable development are inextricably dependent on the environment.” (R49)*

### **Presumption in favour of development**

19. Some respondents were concerned that the proposed changes, as written, introduced a presumption in favour of development.

*“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” (R58)*

*“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” (R57)*

*“The proposed planning policy adopts a presumption in favour of sustainable development, but does not suggest that there should be an equivalent presumption against unsustainable development” (R84)*

### **‘Presumption’**

20. A small number of respondents sought further clarification on the term ‘presumption’, with some questioning whether the use of the term was necessary.

*“... it would be useful to specifically define the term ‘presumption’. This would clarify whether it has a legal meaning. If the term does not have a legal meaning, does it need to be used? It may be simpler to say that planners are required to base their decisions on the principles of sustainable development” (R21)*

*“Text should be added to define or clarify the term ‘presumption’ with respect to any legal meaning. Alternatively, it could be removed and a simple statement included saying that SD should be the principle for decision-making” (R21)*

### **Future changes**

21. Respondents noted that the amendments made would need to be reviewed in light of future legislation and changes within the planning system. This included the role of the Planning Bill, the Environment Bill and the Sustainable Development Bill.

*“The Welsh Sustainable Development Bill currently being drafted is expected to provide a consistent definition to inform other Welsh legislation. It will be necessary to ensure that PPW tallies with the definition in that Bill” (R22)*

### **‘Outdated’ or ‘superseded’**

22. Respondents sought further clarification on the terms ‘outdated’ and ‘superseded’ in the proposed changes. These responses also identified issues with regards to plans adopted for development control purposes and how this would work with the proposed changes.

*“There is insufficient guidance for LPAs on determining planning applications in the absence of an adopted plan or where there are outdated or superseded policies”*

*“...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” (R62)*

23. Other general comments identified in the responses are as follows:

National policy is always a material consideration – it is a matter of the weight it is given.

Amendments would undermine the democratic process.

Greater weight should be given to emerging LDPs.

National policy must be up to date.

Development plans should be reviewed and modified to ensure they are up to date.

Amendments will incentivise LPAs to ensure they have an adopted development plan.

There should be a focus on mitigating impacts of development.

Planning Policy Wales national development control policies should be given clear, unique references.

A preference to attach greater weight to national planning policy than other material considerations.

The proposed amendments would delay the preparation of emerging LDPs.

## D RESPONSE ANALYSIS

### Question 1

<b>Q1</b>	Do you agree with our approach to strengthening national planning policy by introducing a clear statement on the presumption in favour of sustainable development?
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### Statistical summary

Category		Agree	Disagree	Not Specified
A	Businesses	12	0	3
B	Government Agencies/Other Public Sector	7	1	0
C	Local Planning Authorities	10	6	0
D	Others	9	2	6
E	Professional Bodies/Interest Groups	15	2	2
F	Voluntary Sector	7	4	1
<b>All respondents</b>		<b>60</b>	<b>15</b>	<b>12</b>
Overall percentage		69%	17%	14%
<b>Overall percentage (of 'Yes' and 'No')</b>		<b>80%</b>	<b>20%</b>	

### Statistical review

24. The majority (69%) of respondents agreed with the proposed approach of introducing a presumption in favour of sustainable development in order to strengthen national planning policy. Of those who clicked 'yes' or 'no', 80% agreed and 20% disagreed with the proposal.
25. No respondents in the 'businesses' category disagreed with the introduction of a presumption in favour of sustainable development and the majority of respondents in the 'government agencies/other public sector' and 'professional

bodies/interest groups' categories agreed. The highest proportion of respondents who disagreed were in the 'local planning authority' and 'voluntary sector' categories.

## Overview

26. There was an overall consensus welcoming the changes to *Planning Policy Wales* to strengthen and clarify the presumption in favour of sustainable development within the planning system. Respondents saw that the benefits of this were in areas of Wales with no adopted development plan. While many respondents agreed in principle to the proposal they raised concerns about how it will work in practice. In particular, some respondents raised concerns about a lack of clarity, potential inconsistent interpretation/application and a resultant increase in uncertainty. These concerns were also reflected in the comments of some of the respondents who disagreed.
27. Some respondents raised concern about what the term 'presumption' means and whether this is the appropriate way to strengthen sustainable development in the planning system. Some respondents questioned what the introduction of the presumption will mean in practical terms. A number of those who disagreed were of the view that the amendment was unnecessary as the proposal was no different to current practice.
28. Concern was raised that the presumption in favour of sustainable development would undermine local planning policies and be contrary to the plan-led system. There was also concern that the amendment would undermine the views of local communities and be contrary to the democratic process.
29. Concern was raised about the definition of sustainable development used, with a number of suggestions made as to how it could be improved – including using the definition contained in *One Wales: One Planet* and to make the definition more land use focused.
30. A number of respondents were concerned that the proposal would result in one element of social, environmental and economic being given greater weight in decision making than others. In particular, there was concern that economic

considerations will be given greater weight than environmental or social aspects in decision making. Particular concern was raised in regard to the use of the term 'balance' in paragraph 4.2.4, with 'integrate' suggested as an alternative by a number of respondents.

31. There was an objection to the presumption in favour of sustainable development in national parks and other protected areas.
32. Some respondents raised concern over the lack of LDPs in place across Wales and thought that the amendments would encourage LPAs to progress the preparation of their LDPs. It was suggested that the presumption in favour of sustainable development would be important where there is a lack of a 5 year housing land supply.

## Question 2

**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?

### Statistical summary

Category		Agree	Disagree	Not Specified
A	Businesses	10	1	4
B	Government Agencies/Other Public Sector	7	0	1
C	Local Planning Authorities	11	3	2
D	Others	7	2	8
E	Professional Bodies/Interest Groups	15	1	3
F	Voluntary Sector	11	0	1
<b>All respondents</b>		<b>61</b>	<b>7</b>	<b>19</b>
Overall percentage		70%	8%	22%
<b>Overall percentage (of 'Yes' and 'No')</b>		<b>90%</b>	<b>10%</b>	

### Statistical review

33. The majority (70%) of respondents agreed 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. Of those who clicked 'yes' or 'no', 90% agreed and 10% disagreed with the proposal.
34. The largest proportion of respondents who disagreed were in the 'local planning authorities' category. The majority of respondents within the other categories agreed.



## Overview

35. Only a small number of respondents disagreed, but a proportion of those who agreed were concerned about a lack of clarity. In particular, respondents were unclear about when a development plan/development plan policy is deemed outdated or superseded and who determines this. It was put forward that the amendments would result in an increase in misinterpretation, uncertainty and appeals. It was also suggested that more guidance should be provided to explain the weight to be given to local planning policies (at their various stages), national planning policies and other material considerations.
36. A number of respondents highlighted that national policy is always a material consideration and that the proposal is already current practice. It was suggested that the emphasis should be placed on the weight to be applied to national planning policy. Conversely, of the respondents who disagreed, a number raised concerns that the amendments would undermine the democratic process and result in local factors/opinions not being taken into consideration. Concern was raised over national planning policies and Technical Advice Notes (TANs) being out of date and it was put forward that if national policies are a material consideration they must be up to date. Some respondents raised concerns about the reference to material considerations other than national planning policy. It was also suggested that there should be a greater focus on mitigating the impacts of development.

### Question 3

**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.

#### Overview

37. While Question 3 did not ask a specific question it offered the opportunity for respondents to inform the Welsh Government of their views that were not addressed under Questions 1 and 2. However, where in the view of the Welsh Government, comments related directly to Questions 1 and 2 these were considered as part of the analysis to those questions.
38. Many of the respondents used Question 3 as an opportunity to express their views on a range of general topics not directly related to the specific proposals contained in the consultation paper. This included comments on the planning system as a whole, the adoption of development plans, as well as higher level policies on sustainable development. Where appropriate these comments have been noted and passed to officials in the Welsh Government with the appropriate responsibility.

## **E     NEXT STEPS**

39. This 'Consultation Summary Report' has been published alongside Edition 5 of PPW which incorporates the changes relating to the presumption in favour of sustainable development. Edition 5 of PPW also incorporates a revised Chapter 7, Economic Development, which was the subject of a separate consultation exercise. Copies of all the responses have been uploaded onto our website.
40. A 'Summary of Changes' document has been published in support of Edition 5 of PPW; this sets out a summary of the main changes that have been made following analysis of the consultation responses and is available on our website at: [www.wales.gov.uk/planning](http://www.wales.gov.uk/planning).

## ANNEX A LIST OF RESPONDENTS BY CATEGORY

The table below indicates the categories to which respondents assigned themselves when completing the consultation form. For data protection purposes the name and address details for those respondents who did not wish to be identified have been removed from the index below and from the published consultation responses.

Business		Gov. Agency/Other Public Sector	
3	Evocati Ltd	21	Environment Agency Wales
7	Brechfa Forest and Llanllnwi Mountain Tourism Cluster Association	23	The Coal Authority
12	EMP Projects	26	Welsh Local Government Association
25	Celtic Energy Ltd	40	MOD Defence Infrastructure Organisation
28	Arqiva Ltd	60	Health and Safety Executive
31	Scottish Power Renewables	67	The Countryside Council for Wales
33	Barratt Developments Ltd	77	British Waterways
37	Nathaniel Lichfield and Partners	81	Design Commission for Wales
47	Stride Treglown	<b>Others</b>	
57	The Co-Operative Group	2	Carmarthenshire County Council **
61	Federation of Small Businesses in Wales	9 (32)	Nigel Bruce *
72	Welsh Planning Consultants Forum	11	Evan Owen
74	HOW Planning LLP	14	Salena Walker
75	Seren Group	19	Anon
85	The Home Builders Federation	29	Eco Village North Wales
<b>Local Planning Authorities</b>		30	Anon
6	Snowdonia National Park Planning Authority	39	Anon
8	Wrexham County Borough Council	45	Dwr Cymru/Welsh Water
13	Neath Port Talbot County Borough Council	51	South East Wales Biodiversity Records Centre
17	City and County of Swansea	55	Transition Wales
24	Newport City Council	64	Blaise Bullimore
27	Pembrokeshire Coast NPA	65	Sustrans Cymru
34	Caerphilly County Borough Council	68	JAC of the Clwydian Range and Dee Valley AONB

41	Gwynedd County Council	73	Mairede Thomas
42	Monmouthshire County Council	84	Commissioner for Sustainable Futures
52	Carmarthenshire County Council **	88	Envirowatch.EU
58	Rhondda Cynon Taf County Borough Council	<b>Professional Bodies/Interest Groups</b>	
62	Brecon Beacons National Park Authority	4	Bywyd Cymru
78	Cardiff County Council	16	CPRW
86	Pembrokeshire County Council	18	Network Rail
89	Conwy County Borough Council	22	The Law Society
<b>Voluntary Sector</b>		35	CPRW Pembrokeshire Branch
1	Institution of Civil Engineers Wales Cymru	43	Institute for Archaeologists
5	Cilgwyn community	44	Royal Society of Architects in Wales
20	Carmarthenshire Riders	50	Confederation of UK Coal Producers
36	Open Spaces Society	56	The Town and Country Planning Association
38	Bat Conservation Trust (Cymru)	59	Farmers Union of Wales
46	WWF Cymru	63	Welsh Ports Group
48	Newport (Pembs) Area Environment Group	66	Renewable UK
49	Campaign for National Parks	69	Friends of the Earth Cymru
53	The South West Wales Integrated Transport Consortium	70	Country Land & Business Association
54	Friends of Pembrokeshire National Park	71	RTPI Cymru
82	RSPB	76	Planning Aid Wales
83	Participation Cymru	79	Energy UK
		80	Wales Environment Link
		87	RICS

Notes:

\* This respondent submitted two separate representations – these comments have been combined in order to avoid duplicated results in the statistical analysis of the specific questions.

\*\* Two separate representations have been received on behalf of Carmarthenshire County Council. These were classed under the 'LPA' and 'Others' category respectively within the completed consultation response. These have been treated as two separate responses.

\*\*\* There is no reference number 15 because this number was an incorrectly assigned representation.

## ANNEX B STATISTICAL OVERVIEW OF ALL RESPONSES

A statistical overview of the responses showing the nature of the response to questions 1 and 2 where a 'Yes' or 'No' response was sought is presented below. Where respondents did not complete a consultation form, but in our view their comments related to a specific consultation question, these were considered and recorded as 'Not Specified'.

Q	Response	Business	Government Agencies/ Other Public Sector	Local Planning Authorities	Others	Planning Consultants	Prof. Bodies/ Interest Groups	Voluntary	Total	% of All	% of 'Yes' or 'No'
1	Yes	12	7	10	9	0	15	7	60	69%	80%
	No	0	1	6	2	0	2	4	15	17%	20%
	NS	3	0	0	6	0	2	1	12	14%	-
2	Yes	10	7	11	7	0	15	11	61	70%	90%
	No	1	0	3	2	0	1	0	7	8%	10%
	NS	4	1	2	8	0	3	1	19	22%	-