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Consultation Document

Revision to Chapter 12 of Planning Policy
Wales and Technical Advice Note 21 (Waste)
to reflect the new waste policy drivers

Date of issue: **21st March 2013**

Action required: Responses by **14th June 2013**

Overview

This consultation seeks your views on the Welsh Government's proposed revision of national planning policy in relation to the role of land use planning in the management and control of waste. The broad principles governing the planning process as this relates to the reduction and management of waste are contained in Chapter 12, sections 12.5, 12.6 & 12.7 of Planning Policy Wales (Edition 5, November 2012). Further guidance is provided in Technical Advice Note (TAN) 21: Waste (2001).

National policy has been updated to:

1. reflect the new waste objectives, priorities and targets contained in [i] the Revised Waste Framework Directive (Directive 2008/98/EC on waste); [ii] The new Waste Strategy for Wales, "Towards Zero Waste: One Wales: One Planet" and [iii] The Collections, Infrastructure and Markets Sector Plan;
2. provide guidance on how planning policy interacts with these new waste policy drivers to secure an integrated and adequate network of waste disposal and recovery facilities for mixed municipal wastes.

The closing date for replies is

Friday 14th June 2013. You can reply in any of the following ways:

Email

Please complete the consultation response form Annex C and send it to: planconsultations-f@wales.gsi.gov.uk
Please include "TAN21 Consultation Response" in the subject line.

Post

Please complete the consultation response form at Annex C and send it to the address provided under the "Contact Details" section below.

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

Further related information can be found here:

Planning Policy Wales (Ed 5, November 2012):
<http://wales.gov.uk/topics/planning/policy/ppw/?lang=en>

Technical Advice Note (TAN) 21: Waste (2001):
<http://wales.gov.uk/topics/planning/policy/tans/tan21/?lang=en>

Towards Zero Waste - One Wales: One Planet (June 2010):
http://wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/publication/towardszero/?lang=en

Collections, Infrastructure and Market Sector Plan (July 2012)
http://wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/publication/cimsectorplan/?lang=en

CL-01-12 Planning and Waste - Interim Planning Position
<http://wales.gov.uk/topics/planning/policy/policyclarificationletters/2012/planningandwaste/?lang=en>

The Waste (England and Wales) Regulations 2011, SI 2011 No. 988:
<http://www.legislation.gov.uk/ukxi/2011/988/made>

Directive 2008/98/EC on waste:
http://europa.eu/legislation_summaries/environment/waste_management/ev0010_en.htm

Contact details

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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

What is this consultation about?

1. Planning policy and technical advice must reflect the changes made by the European Union's revised Waste Framework Directive in terms of the priority order of waste management (the "waste hierarchy" and the new policies, priorities and targets for waste set out in the Welsh Government's Towards Zero Waste, the overarching waste strategy document for Wales, and the suite of Sector Plans that help deliver it. Consideration therefore, needs to be given to how planning policy can reflect and interact with these new waste policy drivers in a way that delivers these objectives whilst ensuring compliance with European obligations.
2. The planning system is devolved to Welsh Ministers and it is essential that it is fit for purpose. It should align with policy areas including waste to support the delivery of objectives through planning and the identification of suitable sites.
3. The draft TAN21 document explains the interactions between the national waste strategy, particularly the Collections, Infrastructure and Markets (CIM) Sector Plan, national planning policy and regional waste plans.
4. We are also consulting on proposals to revise the principles in PPW in relation to development control and the reduction and management of waste. At present this is set out under Chapter 12, paragraphs 12.5 – 12.7.

Where are we now?

5. National planning policy for waste in Wales is contained in Planning Policy Wales (PPW Ed 5, November 2012), Technical Advice Note 21 (Waste) (TAN 21), published in November 2001, and the Policy Clarification Letters (PCN 04-04 & CL-01-12). PPW sets out the broad principles governing the planning process as this relates to reducing and managing waste.
6. TAN 21 sets out the general principles and more detailed considerations. It required the preparation of Regional Waste Plans (RWPs) and lays down parameters for voluntary regional arrangements. It also describes the broad scope of the RWPs and the apportionment of need to individual local planning authorities.
7. RWPs provide strategic and spatial information on both waste disposal installations and installations for the recovery of mixed municipal

waste. They address the need for facilities on a regional basis and provide advice and indicators on the type of locations within each region defined by TAN 21 which are likely to be acceptable. The RWPs play an important role in breaking down the waste management infrastructure need into regions and for each local authority area. It has been through partnerships and cooperation between Local Authorities that need has been distributed within each region.

8. Technologies: In the RWP modelling, the preferred waste management options identified gave a guide to the nature of the infrastructure mix needed in a region. The options represent a guide to the technologies within a favourable range of environmental returns. The final mix of infrastructure provision within a Region may therefore be a hybrid of several of the options modelled, or indeed contain elements of them all. This offers a valuable guide to local authorities as to which infrastructure brings the best environmental returns, although the impact of other considerations means that even if a technology option is well represented within the Sustainable Waste Management Option (SWMO) for the region, it does not necessarily mean that it is going to be developed.
9. The current Wales RWPs (First Review), published between 2007 and 2009 in respect of the three regions (SE, SW and North Wales), addressed the issue of site provision through a methodical analysis of arisings, existing capacity and the need for further provision of sites according to which of a number of 'Preferred Waste Management Options' were developed within that Region.
10. The technology options chosen for the RWPs modelling all had nominal facility mixes within them, and a range of facility sizes. From these, nominal land takes were calculated and these were then expressed as land take need per local authority. An overprovision element was added to these calculated figures in order to provide each local authority with a likely area of developable land needed by option chosen. This enabled the local authorities to make sufficient provision of land within their Development Plans for such developments.
11. Development plans play an important role in delivering EU requirements in relation to waste management, as it is within these plans that the precise geographical areas for potential sites will be identified.

Why are we proposing change?

12. The planning system has a role in supporting the implementation of waste policies, objectives and targets. The adoption of the revised EU Waste Framework Directive (rWFD) [Directive 2008/98/EC on waste] sets out the legislative framework for the handling of waste in the EU, and the requirements in relation to waste management and planning.
13. The rWFD marks a shift in thinking about waste from an unwanted burden to a valued resource. It is important to ensure that as far as possible waste arising in Wales is kept and managed within the Welsh economy. The rWFD introduces a modernised approach to waste management with clearer definitions, greater emphasis on prevention of waste and ambitious new recycling goals.
14. Changes to waste management and priorities for Wales is laid down in the new overarching Waste Strategy for Wales, “Towards Zero Waste” (TZW), which was published in June 2010. It sets out a long term framework for resource efficiency and waste management in Wales up until 2050, taking into account social, economic and environmental outcomes. Achieving the aims of TZW relies on a suite of waste sector plans. These will all provide details on how the outcomes, targets and policies in TZW are to be implemented.
15. The *CIM Sector Plan* is one of the sector plans providing detail to implement the objectives set out in TZW and is of most relevance for the land use planning process because it updates the picture of infrastructure requirements, in relation to technology choices and the best overall environmental option for specific waste materials. The waste assessments in the CIM Sector Plan establish the need for residual waste treatment and disposal, as well as describing the move towards higher levels of re-use and recycling. The plan looks to create the conditions for proximity and self-sufficiency which enables the majority of residual waste to be managed in Wales and for as much as possible of the recyclate generated in Wales to be used in Wales.
16. The CIM Sector Plan, together with the Welsh Government’s Waste Hierarchy Guidance, paints the picture in relation to technology choices and the best overall environmental option for specific waste materials. The waste assessments in the CIM Sector Plan establish the position on the need for residual waste treatment and disposal as well as describing the move towards higher levels of reuse and recycling.
17. Land use planning plays a key role in delivering the reuse, recycling and landfill reduction targets established in TZW by facilitating the provision of an integrated and adequate network of waste facilities and associated infrastructure for all priority materials. It is worth noting that the rWFD requirement for an integrated and adequate network relates to disposal and recovery of mixed municipal waste, whilst the aspirations of the overarching waste strategy are to move towards an infrastructure ‘network’ where disposal and recovery operations are

reduced in favour of high volume source segregated collection followed by reprocessing (as well as preparation for reuse and prevention).

18. In order to achieve the goal of zero waste, it will need to be recognised that there is a difficult balance to be struck between making sure we have sufficient capacity to deal with our waste arisings in the short term (to avoid environmental impacts) in a way which does not impede the achievement of longer term goals. In order to facilitate an increase in the quantity of waste material being diverted from landfill to preferred management methods, early delivery of residual waste treatment infrastructure is essential.
19. As we move from where we are now towards these aspirations the planning system needs to facilitate the development of wide ranging and diverse waste infrastructure.
20. The CIM Sector Plan provides a breakdown of figures on a regional basis as a range between two scenarios ('the Business As Usual' trend) or a steady decrease over time ('the Reduction Agenda' trend). These lead to marked differences in predicted waste tonnages by 2025. A similar approach has been adopted for residual waste, with a range reflecting the two extreme options of 'Business As Usual' and 'All prevention and Recycling targets Met'.
21. The modelling exercise undertaken in support of TZW and the CIM Sector Plan considered the impacts of selected residual waste plant options, taking into account the change in recycling targets, improved understanding of waste arising data and the need for the Welsh Government to develop an evidence base to set future policy on the minimum efficiency of energy recovery plants.
22. The relative environmental performance of residual waste management infrastructure (and hence its sustainability) is demonstrated through the use of the WRATE lifecycle assessment tool. This shows that for residual waste management options, their impacts reduce as process efficiencies increase. This is especially significant for energy recovery options, where maximising process efficiency can have a significant effect on their lifecycle impacts.
23. The emergence of new technology has led to the potential for smaller, more dispersed facilities to be developed (more flexible, and able to take advantage of niche opportunities). It has also led to the possibility of larger facilities being developed to reflect economies of scale and reduce expenditure by businesses and local authorities on the management of their residual waste. The end result of this is that it is now more difficult to ascribe a value to an 'average facility' and as such, area-based land-take calculations are likely to become prone to considerable error.
24. The general approach in the CIM Sector Plan has therefore been to move away from land-take based calculations and to express the need

for waste management facilities based on future capacity in tonnes. As a consequence planning policy needs to be revised to reflect the changed methodology for determining the need for waste management facilities.

National Planning Policy and the National Waste Strategy

25. The principles in PPW have been revised to reflect the new waste policy context and this represents a key driver for this consultation exercise.
26. TAN 21 has been redrafted to elaborate on both the principles established by the recasting of PPW and the intentions set out in the CIMS Sector Plan. For the purposes of providing clarity and a degree of certainty about the planning context for decision-making in this interim period, TAN 21 remains extant and is relevant until such time as the revised draft is finalised and agreed by Welsh Ministers.
27. Suitable sites will continue to be sought in the context of the spatial considerations outlined in PPW, TAN 21 (and any subsequent revision), the Policy clarification Note (PCN 04-04) and the locational criteria and Area of Search considerations contained in the RWPs.
28. The draft revision to PPW (sections 12.5-7) seeks to both reiterate and redefine the principles governing waste planning in line with rWFD and the national waste strategy. It covers the application of the waste hierarchy and proximity principles as well as signifying the replacement of the technology approach contained in RWPs with the assessments undertaken in the CIM Sector Plan.
29. Given changes in waste arisings since the dataset used for RWPs, and taking into account waste prevention targets proposed in TZW and set in each Sector Plan, the forecasts of waste arising and of quantities of residual waste to be managed are now different in the CIM Sector Plan compared to the estimated projections provided in RWPs.

The impact on local and regional waste planning considerations – land take

30. It is considered that the 'Areas of Search' exercise undertaken as part of the development of RWP should remain valid.
31. The 'Areas of Search' exercise undertaken as part of the RWP looked at general development criteria and constraints. Therefore the regional-level data for predicted residual waste requirements outlined in the CIM Sector Plan needs to be considered by local authorities in conjunction with the spatial (areas of search) element of RWPs (or updated

regional statement), the revised PPW and TAN 21 (and any subsequent revision), in order that the appropriate level of provision for waste management is made locally, sub-regionally and regionally.

The impact on local and regional waste planning considerations – capacity

32. The CIM Sector Plan indicates a current capacity gap in the provision of non-landfill residual waste treatment capacity both on the ground and operationally. However, planned capacity is in the process of coming forward for example, planning permissions exist in some regions but the impact of the procurement programmes is yet to crystallise in terms of operational capacity.
33. If the predicted non-landfill capacity outlined in the CIM Sector Plan is developed by 2015, then there should be enough residual waste treatment capacity in Wales to meet the needs of the municipal, commercial, industrial and construction and demolition sectors on a year on year basis. However, this is provided that the majority of residual outputs from the identified interim treatment and energy recovery facilities are utilised as secondary materials rather than being landfilled, and that there is also the long-term planning to provide future landfill void space to meet residual arisings which cannot be reused, recycled, or recovered.
34. It is considered prudent to retain a minimum number of years of landfill capacity and void in each region (N, SW & SE) relative to a specified trigger point (the level for this trigger point forms part of the consultation exercise). Hitting the trigger will result in a site search and selection process to identify suitable locations for landfill. The Technical Advisory Group, in assisting with the preparation of the revised TAN21, discussed a number of timeframes which could be used to identify this “trigger point” of capacity. We would therefore welcome your views on whether it should be 6 years, 8 years, or 10 years?

The impact on local and regional waste planning considerations – monitoring

35. The Welsh Government needs to ensure that regional capacity for residual waste treatment is sufficient to meet regional need. As part of the actions in the CIM Sector Plan, ongoing revision of waste arisings, performance and capacity needs to be undertaken on a regular basis, with routine projections of the need for residual waste capacity presented against available capacity.
36. The planning process therefore depends on effective monitoring and draft TAN21 identifies that Environment Agency Wales (Natural Resources Wales) is ideally placed to lead the process of providing data, with regional collaboration between the local planning authorities who will be required to provide annual monitoring reports. Effective monitoring will assist in the determination of planning applications, and support Local Development Plan preparation and review.

Impact on local and regional waste planning considerations – development plans

37. Development plans continue to play an important role in facilitating EU objectives in relation to waste management by ensuring that sufficient land is identified to facilitate the provision of an adequate and integrated network of waste facilities.
38. The Welsh Government does not wish to see any delay in the preparation of Local Development Plans (LDPs), particularly those already at deposit stage or expecting to be placed on deposit, during this period of consultation. Therefore, in the interim, the land take ranges can be considered to provide a valuable spatial basis for implementing the broad principles of the CIMS Plan and should continue to be used by local planning authorities in the preparation of LDPs, in order to facilitate the provision of a wide ranging and diverse waste and resource management infrastructure. Similarly, the locational criteria and areas of search information (including the GIS tool) referred to in the RWPs continue to be of relevance for LDP preparation.
39. Local planning authorities will not be expected to consider whether policies and targets in an already adopted LDP require change to reflect the CIM Sector Plan until such time as revised national planning policy (PPW (section 12.5) and TAN 21) is published. Such consideration should be included as part of the next Annual Monitoring Review of the LDP.

What changes are we proposing?

40. The recasting of national planning policy on waste is intended to facilitate a comprehensive, flexible, integrated and adequate land use planning framework for the delivery of sustainable waste management in Wales.
41. The rWFD has identified that we need to think about waste as a valuable resource rather than an unwanted burden. Consequently land use planning has a key role in allowing suitable and sustainable waste management facilities to be developed that will re-use, recycle, and recover waste materials prior to the disposal of any residual element.
42. The main changes being proposed are:
 - i) Acknowledging that waste policy targets and drivers have evolved and consequently the Regional Waste Plans, which are based upon land take, are now outdated and should be revoked.

- ii) introducing a requirement for data collection, monitoring, and the production of annual reports, which can be used as evidence to support development plans and planning decisions.
- iii) introducing a requirement to retain a minimum number of years of landfill capacity and void in each region (N, SW & SE) relative to a specified trigger point (the level for this trigger point forms part of the consultation exercise). Hitting the trigger will result in a site search and selection process to identify suitable locations for landfill.
- iv) recasting policy to promote driving waste facilities up the waste hierarchy through the introduction of a Waste Planning Assessment (WPA). The WPA will place the onus on developers to demonstrate that they have considered the waste hierarchy; the contribution in terms of tonnage the facility would be able to provide towards meeting *Towards Zero Waste* and *CIM Sector Plan* objectives, and that any departure from the hierarchy could be justified on the basis of the best environmental outcome through the use of Life Cycle Assessment (LCA).

Annex A: Consultation Questions

Questions relating to this consultation are set out below. If you wish to respond, please complete the Consultation Response Form. The Consultation Response Form provides space for you to make additional comments when replying to the consultation questions.

Responses to the consultation may be made public, either via the internet or in a separate report. If you would prefer your response to be kept confidential, please indicate this on your consultation response.

Question Number	Question
1	Do you agree that the draft planning policy (PPW & TAN21), as proposed, make clear how planning policy interacts with the waste objectives, priorities and targets?
2a	Do you agree that the draft planning policy, as proposed, will be effective in identifying suitable locations for mixed municipal waste disposal and recovery operations?
2b	Do you agree that the draft planning policy, as proposed, will be effective in facilitating the delivery of an adequate and integrated network of mixed municipal waste infrastructure?
3	Do you agree that the revised TAN21 provides clear guidance on how local planning authorities can consider the provision of all types of waste infrastructure and facilities in a period in which the capture and management of waste is evolving?
4a	Do you agree with the proposal to retain a minimum level of landfill capacity and void in each region (N, SW & SE) relative to a specified trigger point?
4b	Do you agree that this trigger should be based upon a number of years of void space? If not what should be used instead?
4c	How many years [6,8, or 10] of void space capacity do you consider to be the most appropriate trigger point?
5	Do you agree with the proposals on the production of Annual Monitoring Reports to be produced by Local Planning Authorities in conjunction with Natural Resources Wales?
6	Do you agree that the Waste Planning Assessment will assist Local Planning Authorities to identify how the proposed development will contribute towards meeting Wales' objectives for waste, as set out in the Revised Waste Framework Directive, Towards Zero Waste, and the CIM Sector Plan?
7	What further guidance, if any, would you like to see in the draft planning policy, as proposed?

List of bodies/organisations invited to respond to this consultation

All Local Planning Authorities
(25)
All Wales Ethnic Minority
Association (AWEMA)
Architecture Verte Ltd.
Arup
Association of National Park
Authorities
Bartlett School of Planning
BRE Global Ltd
British Waterways
Bwrdd yr Iaith - Welsh
Language Board
Cadw
Campaign for National Parks
Campaign for the Protection of
Rural Wales
Capita Symonds
CBI Wales
Chartered Institute of Housing
Cheshire West and Chester
Council
Children's Commissioner for
Wales
Citizens Advice Bureaux
Civic Trust for Wales
Coal Authority
Community Enterprise Wales
Community Housing Cymru
Commissioner for Sustainable
Futures
Country Land & Business
Association
Countryside Council for Wales
Crown Estate Commissioners
Cynnal Cymru
Department of City and
Regional Planning Cardiff
University
Department of Energy and
Climate Change
Department of Law Cardiff
University
Design Commission for Wales
Development Planning
Partnership
Disability Wales
Disabled Persons Transport
Advisory Committee
DTZ
Energy Savings Trust
Entec UK Ltd.
Environment Agency Wales
Federation of Small Businesses
Farmers Union of Wales
Federation of Master Buildings
Friends of the Earth Cymru
Forestry Commission Wales
Geldards
GMB
Greenpeace UK
Gwent Association of Voluntary
Organisations (GAVO)
Health and Safety Executive
Herefordshire Voluntary Action
Home Builders Federation
IoD Wales
Land Registry Wales Office
Land Use Consultants
Landscape Institute Wales
Law Society Wales
Ministry of Defence
National Air Traffic Services
National House Building Council
National Trust
Network Rail
NFU Cymru
Older People's Commissioner
for Wales
One Voice Wales
Operator of Cardiff Airport
Planning Consultancy Forum
Planning & Environment Bar
Association
Planning Aid Wales
Planning Inspectorate Wales
Planning Officers' Society
Wales
Police Liaison Officer
Public Services Ombudsman for
Wales
Race Equality First
RNIB Cymru

RNID Cymru

Royal Institution of Chartered
Surveyors Wales
Royal Society of Architects in
Wales
Royal Town Planning Institute
Cymru
RPS Planning and
Development
RSPB Welsh Headquarters
Sports Council for Wales
Stroma Accreditation
Sustainable Wales
TGWU
The Centre for Sustainable
Planning and Environments
The Equality and Human Rights
Commission
The Guide Dogs for the Blind
Association
The Outdoor Media Centre Ltd
The Outdoor Advertising
Council
Theatres Trust
Town and Country Planning
Association
Town and Country Planning
Services (Conwy)
Turley Associates
Unite
Wales Council for the Blind
Wales Council for the Deaf
Wales Council for Voluntary
Action
Wales Disability Rights
Commission
Wales Environment Link
Wales Tourist Board (Visit
Wales)
Wales TUC
Wales YFC
Wales Zero Carbon Hub
Welsh Local Government
Association
Welsh School of Architecture
Cardiff University
WWF Cymru