

Amgylchedd a Datblygu Cynaliadwy  
Environment and Sustainable Development



Llywodraeth Cymru  
Welsh Government

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Eich cyf : Your ref  
Ein cyf : Our ref  
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Dear Sir,  
**Conwy Local Development Plan – Focused Changes**

Thank you for the Focused Changes consultation and the delivery of LDP submission documents (28.08.2012).

The matter of whether a plan is considered 'sound' will be for the appointed Planning Inspector to determine.

With regard to Focussed Changes (FCs) and their role in plan preparation, Circular Letter CL-01-2009 clearly sets out their purpose, specifically being appropriate only in exceptional circumstances. Whilst it is acknowledged that the current changes are necessary, the length and volume of the changes published are of concern. The purpose of publishing Focussed Changes is to redress specific issues and they should not become a process in themselves. Focussed Changes should be kept to a minimum, both in their number and iterations.

The Focussed Changes have been considered in the light of the representations made to the Deposit Plan and in accordance with the consistency and coherence & effectiveness tests (principally in accordance with whether satisfactory regard has been given to national planning policy - test C2).

In particular we would highlight the need to consider whether the following matters have been fully addressed:-

the justification for new, locally produced population and housing projections and the robustness of the corresponding reduction in the planned response to housing requirements, including the lower contingency provision.

the lack of a site allocation for Gypsy and Travellers and whether there will be sufficient commitment to resolve this matter in cooperation with neighbouring



authorities. The collective performance in finalising the joint regional needs study is a matter of serious concern.

the challenging nature and hence deliverability of the affordable housing and open space requirements and whether the policies are expressed in the most appropriate way.

the impact on the Welsh language of the various types of provision (including windfalls) relied on by the plan to deliver housing and employment needs has been tested as part of plan preparation and that any further assessment relates only to totally exceptional proposals or to informing appropriate mitigation.

Additionally greater clarity in respect of the amount of surplus employment land available to cater for potential waste treatment requirements, the reasons for the need to allocate BMV agricultural land and how sensitive development in TAN 15 C1/2 floodrisk areas has been avoided would better demonstrate how the plan responds to national policy.

These concerns and other issues are explained in the attached annex which also indicates whether the Focused Changes meet the matters raised in our deposit representations. We have not provided any representation where a Focused Change does not address our earlier deposit plan representations and we do not object to the change proposed.

Yours faithfully,

Mark Newey  
Head of Plans Branch  
Planning Division  
**(enclosure – annex)**



## **Annex to Welsh Government letter in response to the Conwy LDP Statement of Focussed Changes.**

### **Concerns Arising from Focused Changes unrelated to Welsh Government Deposit Stage Comments.**

#### **Scale of Housing provision**

It is noted that BP2 Population and Household Projections (with dwelling and employment projections) has been updated based on a new 2009 (15-year migration trend) projection. This suggests a dwelling requirement of 6450 dwellings compared to the 6,800 indicated by the WG 2008 projection. (inclusive of the Snowdonia National Park area)

While a comprehensive projection exercise has been undertaken the justification for using a longer average migration period for the projections and the other more recent ONS data will need to be tested to confirm whether a deviation from the latest WG 2008 based projection is warranted in this instance

Additionally the robustness of the corresponding reduction made to the housing land allocations will need to be confirmed to ensure the plan, at the very least, can deliver the projected requirements.

*N.B. Figures given in the various plan tables, text and Background Papers do not appear to be entirely consistent and should be rationalised as necessary. For example BP 2 refers to 6,350 dwellings (excluding the NP) and 7194 with 665 contingency (this does not tally?). FC-HS014, section 4.2, Table 4 and the table at FC - HS020 have 7194 with 665 as the contingency i.e. 6529 without contingency. Table 5 at FC-HS015 also gives 6529 without contingency. However FCs - SS009, HS 003,016,017,018,013 (Policy HOU/1) and BP/41, Contingency Release, para. 2.1 say 6350 and 6985 with contingency.*

FC HS013, Policy HOU/1 should, at least, include the higher figures given in the revised Tables at FCs HS 014/020 and be reworded to make it clear that:- *“The plan provides for 7194 dwellings in the form of completions, commitments, windfall, new allocations and contingency sites in order to deliver 6529 dwellings.....”*

#### **Contingency**

FCs SS008, 009, HS014, 020 & IM006 propose changes to reduce the contingency allowance from 15% to 10% or 665 dwellings. *N.B. HS013 refers to 635 and BP 33 to 695.*

The ‘Addendum to Consultation Report’ Section 10 (Table 1. Housing Contingency Level and Sites) and BP/41 Contingency Level and Release suggests the reduction reflects past build rate trends and levels of contingency accepted elsewhere.

However the reasons why 10% contingency provision is now appropriate when 15% was deemed necessary to provide flexibility in the deposit plan remain unclear and the change is





not sufficiently evidenced. The level of contingency appropriate in a specific area should relate to local evidence of past performance in the delivery of plan allocations or planning permissions and/or an assessment of the level of risk associated with the proposed plan allocations, albeit allocated sites should be inherently deliverable. Rates used elsewhere are not necessarily relevant and do not provide evidence to justify a reduction which could impact on the robustness of the plan.

Given the overall reduction in the level of housing provision now proposed and the degree of reliance on windfalls, etc it will be important to ensure the contingency level adopted is sufficient to provide an appropriate degree of flexibility.

Equally it should be clear why any contingency sites deemed appropriate in the deposit plan, but which have not been retained or converted to allocations, are now no longer to be included in the plan when potentially they could assist in providing additional flexibility.

## Focused Changes Addressing Welsh Government Deposit Stage Comments

*(Brief synopsis WG deposit stage comment)*

- B.** Objections under soundness tests C2, CE1, CE2: Matters where it appears that the deposit plan has not satisfactorily translated national policy down to the local level and there may be tensions within the plan, namely
- Bi. Gypsy & Traveller site provision** – *(No specific site provision has been made to address the evidence which indicates a site(s) is required).*

BP/40 has been revised but there is no FC allocating a site. FC- HS 088-92 adds new text to the plan explaining why available information is insufficient to evidence the scale and type of site that might be needed. It also indicates that a new regional GTAA has been undertaken as part of the LHMA and that while it has not yet been published it is possible there will be a need for a transit site near the county border. FC- HS 086 adds a new criterion (2) to Policy HOU/9 regarding the commitment to finding a site, if necessary, and FC - HS 092 makes new references to working with Denbighshire CC.

The requirement to assess the need for a G&T site has been known since work commenced on the plan. Consequently it is extremely disappointing that the regional study has not been progressed expeditiously so as to be available to inform the plan all the more so because the information that is available appears to suggest there is at least a need for a small transit site in the coastal area. The study must be finalised quickly to provide the required detail. If it is not possible to do this and to identify a site as part of the examination then the commitment to proactively address the study findings within a set time frame needs to be absolutely clear. There should be evidence, from two Authorities involved, of a joint member level commitment to cooperate in finding and agreeing an appropriate site/s.



This should be reflected in the monitoring framework which must include a firm commitment to finalising the study by a specific date and set a timetable with action points for finding a site.

**Bii. Minerals** – *(The relevant resource should be safeguarded in totality.)*

FCs MW010-012 and 018- 021 delete policy MWS/5 (sand and gravel) and merge the original provisions with those of policy MWS/3 (hard rock). The proposals maps have been amended to extend the safeguarding areas and the large scale maps are now posted on the web-site.

Although there does not appear to be a specific Focused Change covering the large county wide maps which include the additional areas, a change of this nature would address the original WG deposit representation.

**Biii. Affordable Housing** – *(The ability of the plan to maximise the delivery of affordable housing, the relationship between the proposed delivery target and the overall housing provision, and the viability of and justification for the affordable requirements in the rural development strategy area.)*

BP/36 'Affordable Needs' has been revised following a thorough review of waiting lists so that the assessed need over the plan period has reduced from 4335 to 1980 (132pa).

*N.B. 'Addendum to Consultation Report' Section 10 Table 1 shows the need has reduced to 1980 but Section 11 says 1875 as do FCs SS008 & HS029/030.*

It appears (FCs SS008/009 & HS 030/031) that the plan now aims to deliver c1000 (960) intermediate affordable dwellings through the planning system (including 10% of the empty homes) with a further 900+ social rented dwellings becoming available as the result of turnover etc. (FC HS003). However FC HS014 (Table 4) gives for the total affordable supply from planning sources as 1326. The new explanatory text should be clearer and the correct affordable housing target should be expressed explicitly along with the corresponding affordable housing need figure.

BP/9, Viability Study has been revised and the plan requirement for 30% affordable housing has been retained. This could now prove to be too challenging as the evidence appears to suggest that 30% may only be possible on greenfield sites and that 10% could be more likely with brown field sites/empty homes/school modernisation opportunities. FC HS028 revising Table 6 and HS031 proposing new plan text also confirm this to be the likely outcome. Consequently the way in which the policy is expressed may need to be refined.

It is claimed that changes to the affordable housing target reflect differing green and brownfield viability and does not require a blanket application of 30%. However new Table 6 includes 661 affordable dwellings from allocations while Table 4 (FC HS014) indicates there are 2327 allocations. Generating 661 from 2327 allocations requires a consistent 28% yield. This needs to be explained and if appropriate the yields from allocations and the total shown should be revised.



In response to revised population estimates the overall housing provision in the plan has been reduced but the implications of doing this in terms of the potential loss of an opportunity to deliver some extra affordable housing and meet a key national and local objective does not appear to have been explored fully. The authority needs to explain why it has chosen to reduce the level of general housing development and thus deliver less affordable housing when this is such a key local issue.

It is proposed to relax the 100% affordable policy in the smaller settlements with some general housing in the mix if needed to ensure viability. (FC HS006, etc) Although this may be necessary to ensure delivery in this type of settlement it will be important to be able to justify the planning reasons for local/affordable restrictions in some cases but not in others.

**Biv. Open Space** – *(There is a lack of local justification for the open space requirement in the plan which is higher than set out in TAN 16.)*

Open space policies have been reworded to conform to TAN16 but to take on board CCW comments regarding amenity open space (FCs - FS 023/26/27/28/29). Policy CFS/11 is amended from 1.6ha for outdoor sport to 0.4ha but then 0.6ha is added for amenity open space. The total is now 3ha as opposed to 3.6ha previously.

The sport/play area requirement now aligns with national standards.

TAN 16 refers to 'amenity green space' as being informal recreation spaces, verges, domestic and other gardens and grounds and village greens. However, the TAN does not offer any guidance on requirements other than a reference at para. 2.18 to the CCW standard of 2ha per 1000 pop for natural greenspace.

The new text says it is split between .3ha for major formal amenity (parks, nature reserves, commons) and .3ha for neighbourhood amenity (play area buffer zones) and that this is the standard in the adopted Colwyn Local Plan.

The authority will need to justify the 0.6ha addition (FC - FS 027), its impact on densities and hence the potential to deliver dwelling numbers and the implications for affordable housing viability.

*N.B. The timing of open space audit review is unclear FC - FS 029 says after deposit FC - FS 030 seems to suggest after adoption?*

**Bv. Welsh Language** – *(Welsh Language should form part of the overall assessment when formulating the plan's strategy and allocations. The principle of development is not a matter for subsequent assessment at applications stage.)*

The Addendum to the Consultation Report (Section 10, Table 1, Cultural Heritage) refers to a new Language Impact Assessment of the plan strategy which has been carried out in line with draft TAN 20 and a new Housing Occupancy Study conducted in association with the





Welsh Language Board/Menter yr Iaith. Changes have been made to policy CTH/5 and SPG to reflect the TAN. The WLB agreed with the changes.

FC CH013 proposes a change to Policy CTH/5b) to the effect that assessments are required for larger urban and rural windfalls while CTH/5d) requires more detailed assessments of larger applications of any type. The impact of the overall scale of all the windfalls and larger developments that the plan relies upon to deliver housing, etc should have been assessed as part of plan preparation. Assessment requirements should only relate to mitigation as at CTH/5a), proposals in excess of the amount of development planned for the strategy areas as referred to at CTH/5c) or to wholly unforeseen departure proposals. CTH/5b) first and second bullets are not appropriate and should be deleted. The plan relies on windfall provision, so larger scale windfall development in urban areas must surely be part of the strategy and the policy should not impinge on delivery. Similarly with CTH/5d) larger scale development within the scope of other plan policies will form an integral part of the strategy and as such should be assessed at plan level. If large windfalls in small rural settlements are considered disproportionate to the scale of a village then this should be made clear in development thresholds expressed in other policies in the plan and be reflected in the overall housing provision figures.

Deleting requirements from CTH/5 will require corresponding changes to other policies in the plan where the need for assessment is cited. The proposed Focused Changes are not always consistent e.g. FC ES033 Policy EMP/3 criterion (f) has a Welsh Language assessment requirement for non-allocated employment sites, FC T0009 Tourism has no similar requirement but FC CH 013 Policy CTH/5 (b) does require one for tourism, employment, etc. The requirement for assessments for employment sites seems particularly difficult to justify in the light of the wider plan strategy to over allocate employment sites with the aim of reducing out-commuting.

**Bvi. Best and most versatile agricultural land (BMV)-** *(national policy requires that the loss of BMV must be fully justified. The 'weight' attributed to BMV when considering the distribution of development and how this has, or has not influenced the identification of site selections/allocations requires further clarification to demonstrate any potential loss can be fully justified.)*

The 'Addendum to Consultation Report' Section 10 (Table 1. Housing Strategy BMV) suggests that the authority has exhausted all other land in its effort to deliver the development needs and that the details are provided in BP 21, Site Deliverability Assessment. Tables 8 10 list agricultural land classification and responses provided in accordance with TAN6 Annex B1 and the site assessments at Table 11 indicate agricultural land quality. BP35 (Justification for the Removal of the Proposed Development Sites from the Revised Deposit Plan of March 2011) is also cited although it does not refer to BMV as a specific reason for deleting sites.

BP 37 Growth Distribution Options Report, page 32 lists agricultural land quality as a constraint likely to affect development in some settlements and at page 36 explains the reasons for the loss of BMV in Abergele.





It would be helpful if the allocation requirements, their impact on BMV and the reasons why the land needs to be taken were to be summarised in one place.

Confirmation that the reasons are deemed appropriate in terms of the local circumstances will address the earlier representation.

- C. In relation to soundness tests CE2, CE3, CE4: whilst not considered to be fundamental to the soundness of the LDP, we consider there to be a lack of certainty or clarity on the following matters which we consider we can usefully draw to your attention to enable you to consider how it might be better demonstrated, that:

**Ci. the strategy and policies are deliverable.**

**Windfalls:** *(degree of reliance and evidence for continued delivery. Policy DP/2 may need to be strengthened to better guide the release of windfall sites in line with the strategy and the proposed monitoring at paragraph 5.1.5.)*

The focused changes do not significantly change the plan's reliance on windfalls. (c20%). Although it is appreciated that the nature of the area means a significant amount of development occurs on small sites recorded as windfalls because they are not allocated and that further supporting evidence has been provided to justify the anticipated future delivery from this source it will be important to establish that the supply of viable infill and redevelopment opportunities will not reduce over time.

Although historically it appears that the pattern of windfall opportunities generally reflects the plan's spatial strategy it is not clear whether policy DP2 or the other policies will be sufficient to ensure that this is the case in respect of new permissions granted.

**Delivery Plan:** *(confirm the lack of constraints or clarify the means by which they are to be overcome. Implications of the CIL Regulations 2010. Policy DP/5 and other policies, i.e. STR/3 (criteria 3) may prove difficult to achieve with implications for delivering the plan.)*

Delivery has been reviewed – a number of sites deemed undeliverable have been deleted and some contingency sites moved to allocations (BP 41 para. 3.1 refers). BP/30, Phasing Plan – includes a review of constraints and gives an indication of the expected plan phase for each development site. However while constraints are noted and some sites are put in later phases there is no real indication as to how problems such as the lack of a sewage works etc will be addressed. There needs to be confidence that where there are constraints to be overcome the relevant services can be secured within the envisaged plan phase and the broad scale of costs are such that they can be borne by the development along with other requirements. Further clarity within the existing implementation plan regarding the precise timing of infrastructure, the cost impact on viability and physical/commercial limitations on the rate of development of specific allocations would help demonstrate deliverability.

The proposed Focused Changes do not appear to address the potential gap before any CIL charging scheme becomes operational.







Cii. the plan is **flexible** to enable it to deal with changing circumstances.

**Contingency sites:** *(shown as outside settlement boundaries and some within 'green wedges'. Clarification that there is no impediment to such sites being brought forward and there is appropriate policy coverage relating to their release to ensure the strategy is delivered.)*

While contingency sites are still identified separately they are shown within settlement boundaries and not in the green wedges which addresses these concerns. FCs – SS016, HS019, SS016, IM003, 011-013 and BP 41 (Part 5) indicate how contingency sites are to be released. While there are several references in the text and Monitoring Framework dealing with contingency it would be better if there was at least some policy coverage to back-up the approach proposed. There is a similar issue with employment land contingency.

Concern regarding the proposed reduction in the level of provision for contingency is covered earlier in this response.

Ciii. the plan is adequately supported by **background evidence**

**Housing Distribution** – *(in principle we do not disagree with the proportionate split between the urban and rural housing provision but the background papers would benefit from including more of the rationale behind the proposed strategic development balance and the spatial distribution of development between the individual urban sub-areas or settlements. Explain the direction of travel from the current spatial position, the impact of existing commitments on the strategy and the scale of the allocation in Llysfyaen.*

*The figures and percentages in the plan and background papers should be verified for consistency.)*

It is accepted that the updated background papers (e.g. BP 37) now include a more detailed explanation of the basis for the proposed spatial distribution, the evaluation of options, the issues affecting development in the urban settlement group areas and the more proportional scale of allocations in Llysfyaen due to a reorientation of the settlement boundaries.

Additionally FCs- SS038 and DP007 propose a more comparable split of urban and rural employment and housing land providing a better holistic strategy.

However despite the refined composite table (BP 37, Table 8) there are still some apparent inconsistencies in the figures used in various parts of the plan and background papers (possibly due to differing definitions) which need explaining/correcting.

Although the proportion of development in the rural strategy area (15%) would not appear unreasonable the reasons for the increase from 10% to 15% indicated in FC SS038 (NB the Deposit Plan may not have been correct) and the 30% increase in provision in the Tier 2 main villages (albeit not numerically significant) will need to be justified.



*N.B. FC SS038 indicates there is provision for 950 dwellings in the rural settlements/area while FC HS 014 Table 4 indicates 849. Previously according to the corrections in the new Table 4 it was 1081 not the 680 in the deposit plan as suggested at FC SS038.*

**Flood risk** – *(consistency with TAN 15)*

It is noted that the further study by consultants (BP/17, Conwy Strategic Flood Consequences, March 2012) undertaken at the request of the EA to assess long term climate change impacts only includes assessment of the sites against Zone C test iv 'consequences' and not the other tests in TAN 15. BP 30, para. 3.2.4 refers to TAN 15 constraints, Table 4 has comments on C2 and C1 and where relevant Section 4.1 in a site by site explanation for phasing includes flood risk. BP/21 Site Deliverability Assessment also refers to TAN 15 issues e.g. see 4.10.8 and there are references in BP/4, Housing Land Supply and BP/37, Growth Options.

Some sites have been deleted (see BP/35, Justification for the Removal of Proposed Development Sites) and it appears those parts of sites in Zone C will be avoided. However it would be beneficial to have confirmation that all the TAN 15 tests have been applied and adhered to in making the allocations.

**Waste** – *(capacity of identified waste management sites, surplus employment land capacity available for waste treatment, provision for residual waste/fall-back landfill site.)*

Although some Focused Changes are proposed, Background Paper 20 has been updated and there appears to have been some further progress with the regional approach to handling residual waste there is still no clear summary table of the types of provision being made in the plan to meet the need identified. In particular the extent of any surplus of allocated B1 employment land that is likely to be available to meet waste treatment requirements, as well as B1 needs, remains unclear.

**Energy Efficiency and Renewables in New Development** – *(justification for local variation from national policy for sustainable building.)*

The proposed change to Policy NTE/7 (FC NEO36) deleting the local requirement for on-site energy because of the lack of evidence to support the variation from national policy meets the Welsh Government concern.

It is noted that NTE/7 (a) now mirrors national policy and may no longer be strictly necessary. National changes are currently the subject of consultation and it is possible this will become a Building Regulations rather than planning matter.

**Civ. Implementation and monitoring** – *(mechanisms are sufficiently clear.)*

FCs are proposed to improve the monitoring framework/ trigger points and the plan's phasing proposals. These meet some of the Welsh Government's concerns but the examination hearings may suggest further refinement would be appropriate. The release of contingency sites and affordable housing viability may require particular attention in the





monitoring framework along with related policy to ensure that delivery is maintained consistent with needs and site viability.

**D. Matters relating to clarity of the plan generally.**

**Employment figures** – FCs ES 004 and 012 amend economic growth proposals and BP2 has been updated. The employment need has been reassessed, the urban/rural housing/employment provisions have been aligned and the various figures presented are more consistent. As such the changes meet Welsh Government concerns.

**Additional assessments** – The requirement for a Sustainable Development Assessment has been dropped because this information should form part of a Design and Access Statement (DAS). FC NE 028 to Policy NTE/5 requires a landscape character assessment in some circumstances but the revised text (FC NE 032) indicates this could also be part of a DAS.

**Green wedges** – Some minor FCs are proposed, contingency sites are not shown within green wedges and BP 12 has a review of each area. However this still does not demonstrate that normal planning and development control policies cannot provide the necessary protection, the degree of development pressure in these areas or the effectiveness of previous designations. (Planning Policy Wales Section 4.7)

**Natural Environment Chapter: Landscape Character Areas** – following consultation with CCW Focused Changes NE 004 and NE 028 are proposed which amend Policy NTE/1(g) and NTE/5. FCs NE 029- 31 amend the associated plan text. The changes clarify the requirement to have regard to the special landscape character of the designated areas. Further consideration maybe needed as to whether it is appropriate to have some urban allocations within the special landscape character area. (e.g. Llandulas)

**Cultural Heritage** (*housing provision within the Essential Setting of the World Heritage Site and within the historic landscape designation south of Twthill Farm*) – The proposal to delete this allocation from the plan is noted.

**Renewable Energy Strategic Search Area** – There is no proposed change to clarify the reference in para. 4.6.8.17 to a 5 km buffer zone in relation to the SSA boundary.