

Adran Adnoddau Naturiol
Department for Natural Resources



Llywodraeth Cymru
Welsh Government

Mr Peter Morris
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Dear Peter

Welsh Government Response to Powys' Local Development Plan 2011 – 2026 Focussed Change Consultation

Thank you for consulting the Welsh Government on the focussed changes (FC) to the Powys Deposit Local Development Plan. We acknowledge that the preparation of a LDP and the supporting evidence base is a significant undertaking for all local planning authorities and recognise the amount of work your authority has undertaken to submit its LDP for examination.

The Welsh Government's dual role in the LDP process is to help assist local planning authorities minimise the risk of preparing unsound Plans and to ensure Plans address national policy. The Welsh Government has sought to support Powys in the preparation of its Plan since 2012 through formal and informal comments, meetings and day to day advice. Our key message over the course of the preparation of your Plan and which we have discussed with you in meetings since September 2014 has been the requirement for the LDP to be based on sound evidence. The development planning system in Wales is evidence led and demonstrating how a Plan is shaped by the evidence is a key requirement of LDP examination.

We have reviewed the key changes proposed to the Deposit LDP and the evidence that supports these. We welcome the proposed changes that positively address the issues we have raised. The introduction of a spatial strategy policy; revisions to the DM policies; the removal of policy H6 Affordable Housing on Enabled Exception Sites; updating the supporting text to policy W1 Waste; improved clarity to policy RE1 Renewable Energy; and the strengthening of the approach to flooding and Welsh language are all changes that would strengthen the LDP.

There however remain significant areas of concern and we are disappointed that the fundamental issues raised in our Deposit consultation responses (8th

September 2014 and 16th July 2015) and in the follow-up meeting of 10th August 2015, have not been fully addressed. The Welsh Government remains concerned that key elements of your LDP are not supported by evidence. Whilst it will be for the Planning Inspectorate to determine how the examination proceeds and establish the soundness of your Plan, **we are of the view that there is a significant risk the Plan may be found unsound.**

We have identified our concerns on the emerging Powys LDP, formally and informally, in letters and meetings, since 2012. Our response to your Deposit consultation in July 2015 raised category A, B, C and D objections. Given the fundamental concerns that remain, which are outlined below, we are not commenting at this time on each focussed change or new piece of evidence. We reserve this right for a later date.

Key Areas of Concern

Housing Deliverability - We remain concerned that the LDP is not supported by evidence that demonstrates the allocated sites can be delivered. The CIL Viability Assessment (EB13) has tested sites representative of allocations in the LDP and indicates that housing developments are unviable in two of the four sub-market areas. It also identifies that brownfield and small site development is unviable across Powys (although the Population and Housing Topic Paper (EB35) demonstrates historical completions on small sites dating back to 2004).

The Phasing and Delivery of New Housing Provision Paper (EB29) says that over 1000 units (22% of the plans housing requirement) are financially unviable. The evidence states that large greenfield sites in Central Powys are considered to be the most viable and also that such an allocation (P28 HA1 Land adj. Crabtree Green) is unviable and will be slow in coming forward due to the affordable housing constraint (EB29 Appendix 1). Whilst the authority has done further work exploring whether sites are deliverable, including requesting further information from landowners/agents, it remains unclear how all this additional work has benefited the plan if 22% of allocations and commitments remain undeliverable.

We remain concerned regarding the accuracy of assumptions in the Viability Assessment (EB13) and how this relates to the delivery, timing and phasing of sites in the housing trajectory. Given we have raised these concerns to you in our comments of July 2015 and in our meeting of August 2015, we are surprised the Council has not sought to present new evidence that directly addresses our concerns, or if you consider new evidence is not required, explain more fully the relationship between the LDP policies and the evidence. The Council's Viability Assessment still implies that a significant proportion of housing provision is unviable raising questions regarding the deliverability of the plan as a whole. The further evidence provided in EB29 does not address the issues raised.

We note the additional evidence relating to delivery across the plan period and 5-year land supply (LDP Topic Paper – Phasing & Delivery of New Housing Provision Jan 2016). This does not provide the evidence required to demonstrate the ability to maintain a 5-year land supply. The required build rates remain high towards the middle/end of the plan period (2019-2025). Given the low level of completions and significant under provision in the early plan period (2011-2018), build rates will need to be made up in the remainder of the plan period at a rate of at least 50 dwellings p.a. above the average build rate of 300 units.

Figure 1 in the LDP Topic Paper – Phasing & Delivery of New Housing Provision (Jan 2016) shows a windfall allowance of 87 units per annum or 960 units up to 2026. The 2015 JHLA states small windfall completions are approximately 70 units per annum. Clarification is required on whether large windfalls of 5+ units have been factored into the 87 unit per annum assumption. If they have not been included, the Council you will need to explain why and consider the impact of large windfall sites on the plans housing provision, flexibility allowance and annual build rates in the trajectory.

Housing Provision – We consider FC11 to increase the housing provision in the plan (to 6129) exacerbates rather than addresses the issues we have previously raised. The housing requirement of 4,500 units appears to be based on the 2011 household principal projections. The new figure deviates above the 2011 projections by 400 units and is lower than the figure in the Deposit plan (5519) by 1000 units. Whilst we note the addendum to the Population and Housing Topic Paper, it still remains unclear what evidence justifies a reduction in the housing requirement. You should note that the Welsh Government does not object in principle to revising the housing requirement. The issue is how the figure has been arrived at, why it has been reduced by 1000 units since Deposit, the lack of certainty on whether the figure can be delivered and whether it is the right figure.

The increase in the housing provision to 6129 units means that there is 36% flexibility in the plan. This raises new additional concerns regarding certainty on site delivery. It is not clear why flexibility has been increased from 10% to 36%. The reasons provided do not adequately explain the need for such a high level of flexibility. We consider that moving from an approach to housing delivery that concluded a 10% flexibility allowance was required to one now proposing a 36% allowance, is a fundamental change. In the absence of evidence to explain this, we have significant concerns on the introduction of such an approach at the focussed change stage post the submission of the LDP for examination.

Affordable Housing – Whilst we support the principle of FC12, which increases the affordable housing target to 1257 units, we have significant concerns regarding viability and delivery of the plan as a whole. Appendix 1 of the Phasing and Delivery of New Housing Provision Paper (EB29) for example, states that 1000 units (of which approximately 255 would be affordable units) are considered unviable. There is therefore doubt over the delivery of 20% of the LDP's affordable housing target.

Whilst we are supportive of the principle of FC24, which increases the affordable housing target to 30% in Central Powys, the FC omits reference to affordable housing targets being 'subject to detailed viability assessments'. This removes the flexibility for negotiation with developers and is not compliant with PPW or TAN 2.

Our concern regarding the requirement for a 10% affordable housing target in south-west Powys and Ystradgynlais remains. The target is not supported by evidence in the Viability Assessment (EB13). The affordable housing threshold of 5 or more units in Policy H4 also remains a key issue. The threshold is not supported by evidence in the Viability Assessment (EB13) nor does it align with historic small site completion rates (EB35).

Gypsies and Travellers – We raised concerns that the evidence didn't quantify the need for either permanent or transit sites or when within the plan period they

would be required. FC31 does not address our concerns. There is still an unmet need for 3 immediate pitches in Machynlleth. The 'area of search' identified on the proposals map does not identify the precise location of a site and creates uncertainty for future proposals. We also remain concerned regarding the physical and financial implications of delivering the site by 2016. We note that in accordance with the Housing (Wales) Act 2014, a new Gypsy Traveller Accommodation Assessment (GTANA) will be submitted to the Welsh Government (Inclusion Unit) in February/March 2016. Any implications for the policies/proposals in the LDP arising from this assessment will need to be considered as part of the examination process.

Employment – We raised concerns regarding the relationship between the evidence and the allocations in the LDP. Specifically we were concerned that the relationship between issues identified in the evidence, the allocations and the LDP strategy is not clear; the significant inflation of the employment land requirement to meet future demand is contrary to the viability evidence which says no employment related development would be viable; and it is not clear whether a sequential approach to site selection has been followed. The updated evidence from Jan 2016 provides a useful commentary on recent developments, permissions and enquiries but does not address the aforementioned concerns.

Renewable Energy – The authority has positively addressed the majority of our concerns raised in our deposit representation (July 2015), however, we have an outstanding concern relating to the authority's evidence base ('Renewable and Low Carbon Energy Assessment' EB17) which has not adequately informed the development plan policies for renewable energy or other low carbon technology. All relevant low carbon energy generation mechanisms as identified in the assessment (EB17) for local-authority scale renewable energy schemes or other low carbon technology should be supported by a policy and shown spatially on the proposals map. This policy requirement is reinforced in the Ministerial letter to Chief Planning Officers (10 December 2015).

Whilst not required in national planning policy, we support the inclusion of an indicative target for renewable energy generation (LDP Objective 5, Focussed Change 8). However, the target appears to be unnecessarily restricted by predicted consumption within the local authority area and does not reflect the potential renewable energy capacity identified in the authority's assessment (EB17).

It is particularly disappointing that you have not taken the opportunity to involve us in the more significant focussed changes you have made and thereby avoid the situation where the Welsh Government is seeing for the first time significant revisions to your Plan post-submission for examination.

Moving Forward

The Planning Inspector appointed to examine your Plan will consider the responses to the focussed changes consultation and determine the most appropriate way forward. Whatever the outcome of this, the Welsh Government remains committed to supporting local planning authorities in delivering sound LDPs and we are happy to advise Powys on how the issues outlined above can be addressed.

Notwithstanding the significant issues raised in this letter, much of the work undertaken by the Council will be of value moving forward. The Council has a broad range of evidence and, in general terms, our concerns relate to how evidence has been taken forward rather than there being an absence of evidence. The supporting evidence often provides a good overview of the issues the LDP must address and it is, again in general terms, the disconnect between the evidence and LDP policies that requires further work.

Additional work is required on **viability**. The Council needs to demonstrate whether the allocated and windfall sites and affordable housing its strategy relies on are viable and deliverable. At the present time, the Council's own evidence states that its housing targets cannot be met. The Viability Testing identifies very high levels of unviability on some of the tested sites. The underlying assumptions need to be examined. If they are incorrect, they need to be changed. If they are correct, the Council needs to understand what the implications are for its LDP of having such high levels of unviability across the entire County Borough. Evidence on actual completions should inform this work.

Further work is required to justify and explain in simple, evidence based terms the **housing requirement and housing provision** figures. You must be satisfied with the numbers you have chosen and be able to explain them to the Planning Inspector. You must explain why the numbers have both changed since Deposit and why there is now a 36% difference between the requirement and provision figures.

Viability, deliverability and the housing numbers the LDP seeks to deliver, must be evidence based and understood in the context of ensuring a **5 year housing supply** over the plan period.

The Council must, through evidence, identify the need for **gypsy and traveller sites**. The GTANA should provide this evidence. The LDP must identify sites to meet this need in accordance with the requirements of national planning policy. If the LDP fails to do this, it is likely to be found unsound on the issue that demand is not matched by provision.

For **employment**, further work is required to explain how the evidence has shaped the LDP's strategy and the allocations. In general terms, the evidence provides a good overview of the issues but does not explain how the sites chosen deliver wider objectives other than representing a range and choice of sites. The approach to employment represents an opportunity to deliver wider strategic objectives, including the spatial strategy, housing and social objectives and further work is required to examine this.

Finally for **renewable energy**, we welcome the changes made and the inclusion of targets. Given the potential for renewable energy generation in the County Borough and the importance the Welsh Government attaches to renewable energy, further work is required to examine whether there are opportunities to optimise renewable energy generation and explain how targets have been set.

As previously mentioned, the appointed Inspector will determine the most appropriate way forward. The Council should take the opportunity to reflect on the additional work that may be required, including timescales and financial and

staffing resources, and the degree to which the issues the Welsh Government has raised go to the heart of the Plan.

This letter is written without prejudice to the Minister's discretion to intervene in the LDP process and to the independent examination. As always, we would urge you to seek your own legal advice to ensure that you have met all the procedural requirements, including Sustainability Appraisal (SA) including Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA), as responsibility for these matters rests with your local planning authority.

Yours sincerely

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