



Mr Peter Morris
Spatial Planning & Built
Heritage
Cyngor Sir Powys County
Council
The Gwalia,
Ithon Road Llandrindod Wells
Powys
LD1 6AA.

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Your ref:

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Dear Peter,

**Powys Country Council Local Development Plan 2011- 2026) – Consultation on the
Schedule of Proposed Further Focussed Changes**

Thank you for consulting the Welsh Government on the proposed Further Focussed Changes (FFC) to the Powys Deposit Local Development Plan (LDP). 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, with particular emphasis on your authority's positive approach and commitment in addressing the Inspectors concerns raised at the Exploratory Meeting in May.

Following the Exploratory Meeting, there has been corporate commitment in terms of resources, including financial, to address the points raised by the Inspector. This has culminated in the commissioning of additional technical work, reviewing current work, and further articulation of the Council's position, the basis of which underpins and informs the current consultation.

The Welsh Government's dual role in the LDP process is to 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 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.

WG officials recognise the continued and evolving input of officers from the Council. This has resulted in a very constructive working relationship between both parties to ensure the evidence is articulated as clearly as possible. The onus of course is still on the Council to justify the plan; however, Welsh Government officials recognise the intensive effort and expansive nature of the further evidence undertaken in such a short period of time from the officers. This includes a commitment from senior officers to progress the plan.

We have reviewed the Schedule of Further Focussed Changes and consider that **in many cases the proposed changes and supporting evidence base positively address many of our key concerns** raised in previous representations. Namely those relating to spatial strategy, housing provision and delivery, affordable housing, viability, employment and renewable energy. While we still make some comments on these matters (overleaf) they are no longer considered fundamental in light of the additional work and proposed amendments.

The further justification provided (EB35) in respect of the level of housing provision which deviates 400 dwellings above WG-2011 based principle projection is helpful. On balance the Welsh Government does not object to the level of housing provision in the plan and consider that the Council has justified this deviation in line with the principles of PPW and the key issues the LDP is seeking to address. The additional clarity afforded by the strategic policies (FFC21 & FFC 22) in relation to the spatial strategy and the settlement hierarchy is supported. It is clear that the LDP continues to distribute development to the most sustainable settlements. This is reflected within the updated level of housing provision and spatial distribution in Table H2 (FCC 11) which demonstrates that 84% of the total housing provision is directed to towns and large villages. This approach is also broadly reflected in the spatial distribution of employment land. The Welsh Government is supportive of this approach.

The Welsh Government considers that the updated technical work (EB 42a, EB42b, EB42c, EB29) demonstrates clarity in terms of the various housing components that underpin the housing provision which are now supported by an improved emphasis on delivery. In addition, the Welsh Government considers that the evidence base in respect of viability (EB13, 21, 43) has moved on considerably. In broad terms, there would appear to be a strong correlation between the evidence base and the viability percentages sought in the proposed policy.

The annex overleaf highlights our comments in respect of this consultation and if the Inspector deems it appropriate they can be addressed, amended or clarified through the hearings sessions.

Yours sincerely,

Mark Newey
Head of Plans Branch
Planning Directorate

Annex

Annex:

Settlement Hierarchy FFC21- Introduces new strategic policies including SP5: Settlement Hierarchy and SP6: Distribution of Growth across the Settlement Hierarchy. The additional clarity in this respect is welcome. However, the Welsh Government requires clarification in respect of the difference between the Rural Settlement Tier and the Open Countryside. Para 3.4.8 of the Composite Plan states that rural settlements are defined by *'historically recognised / named settlements, located in a rural settlement of at least 10 dwellings, can be clusters or more dispersed'*. The Welsh Government considers that it is unclear as to how these two settlement tiers are defined. The Council's additional windfall paper (EB42c) refers to a rural settlement as those previously listed in the UDP? It would not be appropriate to rely on a designation in a previous plan to know whether you are in a 'rural settlement' or not. It is also unclear as to what the difference is between a rural settlement and what is considered to be open countryside given that both fall outside settlement boundaries. The Council need to clarify the purpose and relationship of the two separate tiers in this respect, especially as they are both 'exception sites' policies (PPW & TAN6) and consider how the plan can more clearly identify/define what a rural settlement is. This matter is further confused by **FFC59** where rural settlement and the open countryside are grouped together in Policy H1 and have the same criteria? This will ensure that plan users and decision makers are clear as to what policies apply and what development will be acceptable in these locations. Clarity on how both rural settlements and countryside are explained and defined will also aid in the clarity and application of Policy H7: Rural Affordable Homes.

Welsh Language FC44: The proposed focussed changes introduce new reasoned justification paragraphs to Policy DM14. The Welsh Government has no objection to the actual policy wording or identification of the spatial areas. However, the reasoned justification introduces additional wording that changes the thrust of the policy, and what development/spatial areas it applies to, which is contrary to TAN 20. Paragraphs 4.2.65 states that new large housing developments of 10 or more dwellings in higher tier settlements where more than 25% of the population speak Welsh can have a detrimental impact. Can the authority confirm that these places are those that are defined in policy DM14? They should be. The wording of 'in addition to' appears to suggest otherwise. If this is the case then the approach is contrary to TAN 20. In addition, para 4.2.66 goes on to say that consideration will also be given to *the "cumulative impact" of proposed developments of less than 10 dwellings, together with extant planning permission and current proposals within the identified settlements, and those within smaller settlements, within Welsh Speaking Strongholds'*. This paragraph applies to almost everywhere and anything in the plan, for both permitted and proposed developments which is completely contrary to TAN 20 and should be deleted.

The reasoned justification to the policy needs to be amended accordingly to reflect national policy. With regard to the plan's strategy, all sites (including windfalls, allocations, and sites with existing permission) have been identified within the plan to deliver on the overall provision. These should have been assessed as part of the plan preparation process to ensure there are no adverse impacts on Welsh Language. This should be part of the SA/SEA. It would not be appropriate to then refuse planning applications on sites already identified due to Welsh Language matters. The plan should be clear that only those windfalls not factored into the plan should be subject to further scrutiny at the planning application stage. In addition, is unclear as to the purpose of Policy H2 (Criteria ii) which requires a phasing plan **FFC61** for Welsh speaking strongholds. The relationship between this requirement and the Welsh Language policy needs to be explained in light of our previous comments above.

Gypsy & Travellers: Site Allocation(s), Suitability and Deliverability FFC69: The revised Draft GTANA 2016 (EB03a) concludes that there is a need for 5 pitches in Machynlleth by 2021 and 2 pitches in Welshpool by 2026. Firstly, the proposed Gypsy and Traveller allocation(s) and pitches should be listed in a separate site allocation policy to add clarity to the plan. In addition, the timetable for delivery of the proposed allocation(s) needs to be embedded in the monitoring framework. The plan is currently silent on this matter. We note that the Council are pursuing site options to deliver on the identified need (EB28). It is essential that this work is completed in advance of the examination hearing session in order to comply with the necessary legislation and national policy. It is vitally important that the LDP makes a clear commitment to deliver the level of need in the identified timescales.

We are aware of the Councils ongoing programme of work (EB28) in respect of finding appropriate sites to deliver on the identified need and note this work may result in changes to the proposed allocation at Newtown Road. However, at this point in time it is a proposed allocation and Annex 1 of the LDP states that there are issues relating to flood risk. It is unclear how the proposed allocation accords with national policy in this respect. In addition, Welsh Government Circular 30/2007 'Planning for Gypsies & Travellers' paragraph 19 states that flooding should be a consideration when assessing site suitability, it states "not locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans". Flood Risk in respect of access and egress is a key consideration of nationally policy. The Welsh Government considers that the plan should demonstrate that the area (or any alternative sites chosen as a result of the work highlighted in EB28) has sufficient capacity to accommodate the stated use and scale to avoid conflict with regard to flood risk.

Phasing, Delivery & Infrastructure Appendix 1 - FFC90: It is unclear from the plan when sites are proposed to be phased over the LDP period. There is no indication of the phasing of sites within the amended appendix. There should be. We note there is additional work in respect of the phasing of sites and components within the Trajectory Paper (EB29); however the phasing of sites should be embedded in the plan to allow for clarity and effective monitoring. Can the LPA confirm that the phasing of sites in the plan/trajectory is reflective of the identified constraints in Annex 1 such as sewerage infrastructure? The Welsh Government recommends the Council undertake a Statement of Common Ground (SoCG) with Welsh Water to demonstrate that relevant infrastructure can be provided to support development.

In relation to the housing trajectory specifically, it is unclear how the flexibility allowance relates to the phasing of housing over the plan period. More specifically it is unclear if there is enough flexibility at key pinch points/throughout the plan period to accommodate unforeseen issues that could affect delivery. At present Figure 1 does not represent the total provision as stated, it shows only the housing requirement and its phasing over the remaining years of the plan. It is unclear where there is flexibility over the plan period. It would be helpful if Figure 1 was amended to include completions to date, the average remaining build rate which should be amended to 350 dwellings per annum, not 300 as there has already been under delivery in the early years of the plan period, and the graph should total the entire provision not the requirement. This will enable all parties to understand the relationship between the housing requirement and the flexibility allowance in the plan, and ensure that the level of housing can be delivered as anticipated and a five year land supply can be maintained.

Employment:

FFC49: The Local Planning Authority (LPA) should explain the purpose of Policy DM17. It is referenced in the Council's Employment Land Position Statement (EB44) as a policy that protects existing employment sites, yet this appears at odds with the policy itself, which permits alternative uses on existing employment sites. Whilst the Welsh Government does not object to the principle of FFC49, the Authority should consider the inclusion of a new policy that identifies and safeguards key existing employment sites identified in the Position Statement (EB44). Any such

sites will also need to be represented spatially on the Proposals Map. A safeguarding policy is considered essential to deliver the Council's economic growth strategy and promote the churn and expansion of existing businesses in Powys.

FFC52: The Employment Land Position Statement (EB44) identifies that many of the Council's employment allocations in Policy E1 and Policy E3 are on existing B-Class estates. To support the churn and expansion of existing businesses, the Council should provide reassurance that all employment allocations are deliverable with the appropriate physical and social infrastructure in place to allow delivery of the allocations.

Whilst the Welsh Government supports the inclusion of allocations in Policy E1 through FFC52, clarification is required on the size of employment sites and whether the figures included in the policy are gross or net? For example, the Heart of Wales Business Park (Site Allocation - P28 EA1) is identified in Appendix 1 as 'only part developable'. Would this reduce the site size from 3.9ha in Policy E1?

If the Council are seeking to promote ancillary uses on allocated employment sites, this should be clear Policy E1 and Policy E2 and not included in the reasoned justification text.

Policy Omission: TAN 6 requires Authorities to promote economic growth in rural areas. This is particularly relevant given the rural and dispersed nature of development in Powys. To align with TAN 6, the Authority should consider the inclusion of a new policy to support rural employment exception sites and the growth of home working opportunities.

Waste - FFC78: TAN 21 acknowledges that LDP's should indicate where suitable and appropriate sites exist for the provision of all types of waste management facilities to provide certainty for waste operators interested in fulfilling demand in an area (paragraph 3.21). In this respect, employment allocations listed in Policy E1 and Policy E3 should be identified as suitable for waste management facilities where appropriate.

Both Criteria 1 and Criteria 4 of Policy W1 identify all employment allocations as suitable for in-building waste facilities and the temporary storage of inert waste through FFC78. However, some of the employment allocations lie wholly or partially within Flood Zone C2 (e.g. allocation PO2 EA1) and the Council should consider their suitability for waste management facilities. TAN 15 does not permit highly vulnerable development; including waste disposal sites, in Flood Zone C2.

To comply with the requirements of TAN 21, the Council should consider amendments to plan policies to:

- Require a Waste Planning Assessment to be submitted with all applications for a waste facility (paragraph 4.2);
- Support adequate facilities and space for the collection, composting and recycling of waste materials to be incorporated into the design of any development (paragraph 3.25), and

The Council's identification of sites as suitable for an 'urban quarry' in the reasoned justification (paragraph 4.9.8) should be included in Policy W1 to guide their location.

Minerals

FFC37 - Policy DM7: Policy wording does not refer to the safeguarding of hard rock; albeit it is shown as being safeguarded on the Proposals Map. The policy should be amended accordingly to match the spatial designation on the Proposal Map.

Criterion 6: It is unclear as to why “fences, walls, or bus shelters” are included? These are not considered to adversely affect the safeguarding of the mineral resource. These references should be deleted.

Paragraph 4.2.41 of the plan refers to tertiary coal near Coedway, in Montgomeryshire. As tertiary resources are not required by national policy to be safeguarded, can the Council demonstrate that this tertiary resource is not safeguarded on the Proposals Map?

FFC38 - Policy DM8: Whilst reference is made to 500m Buffer Zones for coal in the policy, it would be beneficial if the reasoned justification (paragraph 4.2.43) referred to the exceptional circumstances set out in paragraph 49 (MTAN2: Coal). A cross reference would be sufficient.

Criterion 1 is not necessary within this policy as it refers to sterilisation of a resource whilst this policy is intended to address issues regarding either the protection of sensitive development from the working of a resource or the ability of the resource to be worked.

FFC81 - Policy M1: It is unclear how the policy would apply to development proposals in terms of considering issues such as noise, blasting, environmental impacts etc. Specifically, what criteria would you consider a proposal against? Carmarthenshire’s adopted LDP (Policy MPP1) sets out a set of criteria against which policies can be considered. It would appear appropriate for these issues to apply equally in Powys. It would also be prudent for such an approach to apply to both existing minerals sites and new sites, i.e. having a clear set of criteria to consider development proposals against on both existing and new sites.

Paragraph 4.11.5 supporting Policy M1 also appears to contain policy: “*Proposals for mineral extraction will not be permitted unless*” This appears to be akin to a restoration and aftercare policy. If this is the intention this should be contained in a policy.

Paragraph 4.11.7 refers to unconventional hydrocarbon energy being judged against the plan’s relevant design and environmental protection policies. However, Policy M1 is silent on these issues. Including unconventional hydrocarbon in a general development management policy would address this point.

Flood Risk FFC90: There are various sites with partial areas within flood zone C2 and C1 as noted in Annex 1. The LPA should demonstrate that it has complied with national policy and that all sites / allocations can accommodate the scale of growth proposed and are deliverable within the plan period.

Biodiversity Policy DM2 FFC26: Clarification is necessary in order to explain the deliverability, reasonableness and practical application of requiring a ‘net gain’ in biodiversity interest. What baseline information is available in order to achieve and monitor this requirement? What does net gain mean in practice? The local authority needs to demonstrate that this has been tested to how deliverability and if this affects viability of development.

TAN 5 section 3.3.2 states that ‘Local Development Plans should include policies that safeguard nationally and locally designated sites whilst making clear the relative weight to be attached to the different designations’. The approach set out in policy DM2 is not reflective of the hierarchy of biodiversity sites and applies the same tests to European sites as to National sites. The policy should therefore set out appropriate criteria for national and international sites; the tests applied should be proportionate to the level of designation being considered.

Open Space DM2a FFC27: Welsh Government welcomes the inclusion of policy DM2A provision for open space, however the standards referred to in the reasoned justification (4.2.19) need to be elevated to the policy in line with PPW (11.2.2).

Landscape DM3 FFC28: The reasoned justification to Policy DM3 (4.2.25) applies Policy SP1 from the Brecon Beacons National Park LDP to an application that may have an impact on the National Park. It would be inappropriate to rely on policies in another development plan. There needs to be a new policy or a criterion within this policy to enable this matter to be dealt with within this LDP.

Policy DM15: Design & Resources FFC46: The policy and its reasoned justification appears particular long and complicated, covering a range of issues all in the one policy. The authority should consider splitting this policy up to ensure clarity of the plan, avoiding duplication with other policies. For example, how do the open space requirements in this policy relate to DM2a? Should they be merged into one policy?

In respect of criterion 14, clarification is necessary in order to explain the deliverability, viability and practical application of requiring all development to undertake investigations in the feasibility and financial viability of heating networks. In addition it is unclear how the policy will be applied spatially.

Monitoring: The Monitoring Framework needs to be sufficiently clear and sensitive to ensure the plan is delivered. A transparent and comprehensive monitoring framework should be an integral part of an LDP. Currently, the LDP monitoring framework has shortcomings regarding ranges being too extensive, a lack of trigger points and unspecified actions to redress matters. The Welsh Government is prepared to work with the local authority to improve the monitoring framework.
