



Mr S Yates
Planning Policy Service
Conwy CBC
26 Castle Street
Conwy
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Your ref:
Our ref: APP 030-01-008
Date: 21st April 2011

Dear Mr Yates,

Conwy Local Development Plan – Deposit Version

Thank you for your recent correspondence, copies of the deposit local development plan (LDP) and accompanying documentation. This response supersedes the Welsh Assembly Government's previous response to the first deposit version of the plan.

We recognise your achievement in refining the deposit LDP in accordance with the revised timetable of your Delivery Agreement (DA) and appreciate the extensive technical and associated work undertaken. The DA timetable will need to be reviewed to confirm the dates of the indicative post deposit stages.

The matter of whether a plan is considered 'sound' will be for the appointed Planning Inspector to determine. We have considered the Deposit LDP in accordance with the consistency/coherence and effectiveness tests, and principally in accordance with whether satisfactory regard has been given to national planning policy (test C2). Our representations are separated into 4 categories which are supported with more detail in the attached annex.

- A.** Objection under soundness tests C2, CE2: Fundamental issues that we consider present a significant degree of risk for the authority if not addressed prior to submission stage, and may have implications for the plan's strategy:

None

- 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:

- i. Gypsy & Traveller site provision** – No specific site provision has been made to address the evidence which indicates a site(s) is required.
- ii. Minerals** – The relevant resource should be safeguarded in totality, not part.



- iii. **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.
 - iv. **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.
 - v. **Welsh Language** - Welsh Language should form part of the overall assessment when formulating the plan's strategy and allocations and it should be clear that the principle of development is not a matter for subsequent assessment at applications stage.
 - vi. **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.
- 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 they might be better demonstrated, that:
- i. the strategy and policies are **deliverable**
 - ii. the plan is **flexible** to enable it to deal with changing circumstances
 - iii. the plan is adequately supported by **background evidence**
 - iv. the mechanisms for **implementation** and **monitoring** are sufficiently clear
- D. Matters relating to clarity of the plan generally which we consider may be of assistance to your authority and to the Inspector in considering suitable changes namely:- the employment figures, additional assessments, green wedges, natural environment, cultural heritage.

We have raised some of these issues with you on previous occasions. It is for your authority to ensure that the LDP is sound when submitted for examination and it will be for the Inspector to determine how the examination proceeds once submitted.

We strongly advise that you consider how you could maximise the potential of your LDP being considered 'sound' through the examination process. If you would like to **meet at an early date** to discuss any matter arising from our formal response to your deposit LDP, please contact me.

Yours sincerely



Mark Newey
Head of Plans Branch
Welsh Assembly Government

Annex to WAG letter (16th April 2011) in response to Conwy Deposit LDP

- A. Objection under soundness tests C2, CE2: Fundamental issues that we consider present a significant degree of risk for the authority if not addressed prior to submission stage, and may have implications for the plan's strategy:**

None

- B. Objections under soundness tests C2, CE1, and 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:**

- i. Gypsy & Traveller site provision** - No specific site provision has been made to address the evidence which indicates a site(s) is required.

The plan objectives include making provision for Gypsy & Traveller site needs. Whilst policy HU04 provides a criteria based approach to meet any unidentified need arising over the plan period, in accordance with Circular 30/2007 (<http://wales.gov.uk/topics/planning/policy/circulars/gypsyscircular/?lang=en>) the evidence indicates that there is an outstanding existing need, and as such an appropriate number of site(s)/pitches should be identified in the plan. No allocation has been made to satisfy the existing need. The technical work necessary to determine how the existing need will be addressed should be completed, with any appropriate allocation being made through a Focused Change.

- ii. Minerals** - The relevant resource should be safeguarded in totality, not part.

Background Paper 29, paragraph 3.5 explains the approach taken in the plan to safeguarding. This does not accord with national planning policy which requires the whole resource, not just likely viable/workable reserves to be safeguarded. The North Wales Regional Technical Statement says that rock, mainly igneous rock and limestone, should be safeguarded in the LDP. The plan should identify where these resources lie and safeguard these areas. This will require further clarification on the proposals map.

Paragraph 4.9.6.1 indicates that "significant" sand and gravel resources have been safeguarded. BP 29 paragraph 4.10 indicates that the justification for not safeguarding one of the potential resource areas is that it is already partly developed and there are plan proposals for other sections. However, the rationale how and why allocations have been identified on a resource that should be safeguarded needs to be explained. The whole of the sand and gravel resource, excluding those areas under settlements should be safeguarded.

- iii. 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.

The delivery of affordable housing remains a key Assembly Government priority, as well as being a priority issue for the local authority (page 25 of the plan) and spatial objective SO3. Consequently, the Welsh Assembly Government seeks to ensure that all avenues have been explored to maximise the delivery of affordable housing, both in terms of the scale of overall housing provision and sites.

Paragraph 4.2.14.1 of the plan identifies an affordable housing need of 8460 dwellings over the plan period, whilst the plan makes provision for 2200 (26% of identified need). A primary concern is how the heavy reliance on windfall housing sites in the plan (41% of total affordable housing provision) as stated in Table 6 (page 125) will deliver the affordable housing target. Further explanation and clarity on how commuted sums will assist delivery, as well as evidence to demonstrate the financial levels sought, would be beneficial.

The plan would benefit from further clarity on how affordable housing delivery could be enhanced through the additional provision (assuming the 30% provision sought in policy HOU/2 is applied) of approximately 330 units from the 1100 contingency sites, particularly reflecting that affordable housing is a priority issue for the plan.

- iv. **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.

Although the plan text at 4.5.10.4/6 suggests national open space standards rather than a justified local variation are to be used in the plan area, Policy CFS/11 (1) does not accord with the national guidance (TAN16, paragraphs 2.10 & 2.11 and Annex C) on open space requirements which equate to 1.6 hectares for all outdoor sport and 0.8 hectares of children’s playing space per 1000 population (i.e. 2.4 hectares in total). If national standards are to be used the policy CFS/11 (1) requires amending to align with national policy and any implications for increasing dwelling yields and potential benefits for improved plan flexibility and affordable viability to be identified.

- v. **Welsh Language** – Welsh Language should form part of the overall assessment when formulating the plan’s strategy and allocations and it should be clear that the principle of development is not a matter for subsequent assessment at applications stage.

In preparing the LDP it is appropriate for the local authority to consider the implications of development, both in terms of scale and location, on the Welsh language. Utilising this approach ensures that the development proposals contained in the plan, particularly related to housing, either through specific allocations or growth levels for settlements confirms the principle of the development across the county. However, Policy CTH/5 (BP 33) is unclear and could place an additional burden on development proposals by requiring assessment of the impacts and the principle of development on an individual basis when this should have already been considered through the formulation of the strategy. Subject to clarification of the legal basis and the relationship to Equality Impact Assessment policy might more reasonably refer to unanticipated types of development requiring special assessment or to assessment needed to determine details of any mitigation rather than the principle of development. If a statement is necessary then it should be made clear how the results will be assessed and requirements should be proportionate to scale of an application.

- vi. **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 loss of 24.57 hectares of surveyed best most versatile land, and the potential loss of a further 4.89 hectares of land with a high probability of BMV occurring, must be clearly justified by reference to Planning Policy Wales (PPW) 4.9.1. (...considerable weight should be given to protecting such land from development... overriding need in that location and no alternative site on lower quality agricultural land). It is considered that the Plan, as currently presented, fails to clearly make the case to justify the loss. Background paper 21 identifies this as a constraint, but does not explain why there is a need to identify allocations/ contingency sites on such land and how the assessment process has considered this matter and what rationale and overriding issues have led to the conclusions.

- 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:**

- i. the strategy and policies are **deliverable**.

Windfalls: In total all types of windfall sites are estimated to deliver approximately 30+% of the total provision (2334 dwellings). This degree of reliance on windfalls, especially in some locations such as Llandudno/Conwy where 70% of new development is expected on windfall sites, introduces a considerable degree of uncertainty with consequences for clarity and ability to deliver infrastructure. Additionally, the evidence for the continuation of the rate at which windfall sites have come forward in the past needs to be robust, clearly justifying why and how such a trend will continue over the plan period. If this cannot be evidenced it could result in a serious risk to the delivery of the strategy. 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.

Delivery Plan: The delivery plan work and associated background papers could be reviewed to confirm the lack of constraints or clarify the means by which they are to be overcome. In addition, the implications of the CIL Regulations 2010 should be considered in the light of seeking financial contributions over a wider area, particularly after 6 April 2014. Policy DP/5 may prove difficult to achieve in light of Section 122 of the Regs. i.e. limiting Section 106 Planning Obligations to direct mitigation for development and constricting the ability to pool contributions. There may also be implications for other policies, i.e. STR/3 (criteria 3) and the legality of such an approach. This could have implications for delivering the plan and should be addressed.

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

Contingency sites: The plan includes contingency sites (totalling 1100 dwelling, approximately 16% over the provision) to provide a level of flexibility for the plan, should some sites not come forward. In comparison with other LDPs progressed to date, such a percentage does not appear inappropriate.

The contingency sites are identified as a separate designation on the proposals maps. However, the contingency sites are shown as being outside the settlement boundaries and in some cases within 'green wedge' designations which is inconsistent and confusing. To reflect that the principle of development occurring during the plan period, when the need arises, is accepted - settlement boundaries should be extended and green wedge designations removed from these sites to facilitate delivery. It should also be made clear in the plan that there is no policy or other impediment to such sites being brought forward if allocated sites etc are not being delivered according to the phasing programme. While Table 12 identifies the sites and types of location and the plan text (paragraph 3.10.2) suggests the sites are to be released in line with strategy, further consideration should be given to policy coverage relating to these sites to provide the flexibility needed to ensure the plan's identified growth and spatial strategy is delivered.

Table 11 (in the implementation and monitoring section) does not identify which of the contingency sites the local authority considers to be more suitable to be brought forward earlier than indicated should this be necessary, if for example, commitments or windfalls fail to materialise. An opportunity has been missed to demonstrate more clearly the degree to which the plan is flexible and would benefit from being rectified.

The authority suggests that it would wish to develop the sites on previously developed land in the first instance, but it is not clear whether this applies to the listed sites in Table 11. Although the table and background paper 21 includes information on constraints, it is not clear how much of a constraint some of these are and how much they effect the deliverability of the sites in comparison to those not included in the LDP.

Whilst policy HOU/1 states the level provision and contingency housing, the policy would be clearer if it were reworded to make clear that the contingency component is part of the overall provision to come forward when required, to ensure delivery of the required amount over the plan period.

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

Housing Distribution – It is unclear what factors have influenced the relative levels of growth and the specific housing provision proposed for each of the sub-areas and specific settlements.

The background papers provide information regarding the services and facilities linked to the towns/villages and an explanation as to why and where they appear in the hierarchy. Whilst we do not in principle disagree with the proportionate split between the urban and rural housing provision, the background papers would

benefit from including more of the rationale behind the proposed development balance between the urban and rural areas and the spatial distribution of development between the individual urban sub-areas or settlements. There is little indication of the anticipated direction of travel from the current spatial position nor of how the impact of existing commitments have been considered in terms of the possible need to adjust allocations to deliver the desired spatial distribution of development indicated in the strategy. Background paper 37 covers broad growth distribution options but it could usefully cover the basis for the more detailed numerical spatial distribution e.g. the justification for the scale of the allocation in Lllysfaen, a rural tier 1 village (255 dwellings not including the additional 70 dwellings for the other 2 allocations in the village).

The figures and percentages referred to in Chapters 3 & 4, the tables and background papers should be verified and clarified as there are some differences throughout the plan e.g. table 4 does not match the figures included in HOU/1 while figures from the background papers differ from figures included in the plan with no explanation for the differences. These figures could be shown in a composite summary table to increase transparency and background papers could include explanations for any differences between background documents and the plan.

Flood risk - Confirmation is required that the latest version of the national policy DAM maps has been properly applied to the allocation of sites and background working on site delivery.

Further clarity is required to demonstrate how Policy DP/ 4 (2 g) paragraph 4.1.4.2 and DP/6 (paragraph 4.1.6.3) and Background Paper 17 'Strategic Floodrisk Assessment' are consistent with national policy, making it clear that vulnerable development (including housing) is not appropriate in areas identified as C2 floodplain. It is for the local authority to ensure that all allocated sites meet the full set of relevant tests in TAN 15. Background paper 17 includes a site at Llandudno Junction for housing but also states that this falls within a C2 zone. However, the revised DAM maps do not show this site falling within the C2 zone. The background papers would benefit from a fact check and some minor editing to ensure that the information is up to date as well as clarifying how sites which fall within the C2 areas can be developed in line with national policy, i.e. it could be that flood risk issues relate to part of a site not being proposed for housing but open space.

Waste – The background papers should indicate the extant capacity of existing identified waste management sites and the corresponding surplus employment land capacity potentially available for waste treatment. Additionally the anticipated provision for the disposal of residual waste in the medium and longer term needs to be explained to confirm there is no need for a fall-back landfill site.

Energy Efficiency and Renewables in New Development – It is unclear whether there is robust and credible evidence to justify a local variation from national policy for sustainable building.

Relevant national policies are contained in Section 4.11 (May 2009) and Section 12.8-10 (February 2011) of PPW. The Conwy Deposit LDP at Policy NTE/7 introduces local requirements that are inconsistent with national policy insofar as

the additional requirements apply to all development in the plan area not just strategic developments, include a minimum percentage for renewable energy on-site, are insufficiently flexible to deal with change of circumstances (i.e. future Welsh Building Regulations) and do not appear to be founded on a robust and credible evidence base.

- iv. the mechanisms for **implementation** and **monitoring** are sufficiently clear.

The monitoring framework includes 'trigger points' ranging from (+/- 15% to +/- 50%) indicating when a review would be required and would benefit from more precision. Recent LDPs have benefited from substantive discussion on monitoring during their examinations. The timing of monitoring periods, trigger points, ranges to ensure a simple yet effective monitoring programme would elaborate on the work done to date. It would be beneficial for Conwy to review these before submission, not delaying submission, and considering how their plan could benefit from further reflection. One example could be how the affordable housing policy is monitored to adapt to changing economic circumstances, ensuring the financial viability of sites remains intact.

The phasing provision in the plan (HOU/3, Tables 1b and 11) is not explicitly related to anticipated need across the plan period or within each sub-area and makes effective monitoring difficult. Table 11 does not include the expected phasing of commitments / windfalls and as such is difficult to determine how the figures in table HOU/1b have been calculated.

D Matters relating to clarity of the plan generally which we consider may be of assistance to your authority and to the Inspector in considering suitable changes.

Employment figures – The figures presented in the background papers do not match those included in the plan, and the figures in different sections of the plan seem to be inconsistent with each other. Whilst not of major difference, the figures need to be validated and clarified, to ensure transparency and consistency.

Additional assessments - Through various policies, the plan requires applicants to provide additional assessments to accompany their application. Further explanation should be included to explain the essential need for such assessments and the information required otherwise this could unduly burden an applicant.

Green wedges –Section 4.7 of Planning Policy Wales states that (paragraph 4.7.11) *“local planning authorities should only maintain green wedges where they can demonstrate that normal planning and development control policies cannot provide the necessary protection”*. It is not clearly evidenced as to why this would not be the case for much of the land included within the designation. Policy BP/12 does not indicate the degree of development pressure or the effectiveness of previous designations nor does it provide an assessment of the precise areas that are essential/necessary to fulfil the function of a green wedge. Green wedge designation should not overlap contingency sites.

Natural Environment Chapter (Policy NTE/1 - The Natural Environment Criterion g and Policy NTE/5 - Landscape Character Areas) - In considering this policy and the proposal map annotations it is difficult to determine how it will be implemented. It appears unclear in its design and potential application. The terminology used is confusing, not all policy requirements referred to in the text are included in the policy, the cross-referencing on the proposals map is incomplete and the designations appear on more than one map.

Countryside Council for Wales' Landmap methodology is an important information resource but is not a policy for use in its own right. Therefore it should be clear how, within the plan landscape areas, the specific landmap character information will be accessed and used to inform proposals. If landscape assessments are required this should be included in policy, the link with design and access statements should be explored and guidance on the requirements should be set out in the proposed SPG. Landscape designations within urban areas/settlement boundaries could be reconsidered and/or reflected in the policy criteria.

Further work is required to policy NTE/5 to ensure that policy is clear in what it is setting out to achieve and can be implemented. Currently it does neither.

Cultural Heritage – It is questioned whether the housing provision within the Essential Setting of the World Heritage Site and within the historic landscape designation (to the north of the castle and town walls, south of Twthill Farm) sits comfortably within the Strategic Policies for the Cultural Heritage or with the WO Circulars 60/96 and 61/96 Planning and the Historic Environment: Archaeology and Historic Buildings and Conservation Areas. Other candidate sites have been dismissed for these reasons.

Renewable Energy Strategic Search Area – para 4.6.8.18 refers to a 5 km buffer zone in relation to the SSA boundary. The wording, and consequently how this relates to national policy, is unclear.

General Points

- some policies appear to have no value and may be unnecessary or inappropriate e.g. DP/6;
- several policies/criteria appear to be statements rather than policies e.g. HOU/8
- policy requirements are indicated in text with no corresponding policy e.g. development in the countryside (paragraph 4.10.3) is not mentioned in DP/2;
- references in the plan require correction – both in relation to other policies within the plan and to the correct background paper e.g. paragraph 4.9.4.1 should refer to background paper 29;
- terminology should be consistent between policies and the explanatory text e.g. 4.1.19 regarding the sustainability statement.
- overlaps between sections of the plan and a repetition of policy results in a loss of focus;
- the specific departments of the Welsh Assembly Government that have commented on individual sites should be made clear as should their limited remit (e.g. background paper 21);
- there seem to be some mistakes on the proposals maps e.g. employment sites in Llandudno Junction.
