

**WELSH ASSEMBLY GOVERNMENT RESPONSE TO THE
RECOMMENDATIONS MADE IN:**

**“STUDY TO EXAMINE THE PLANNING APPLICATION
PROCESS IN WALES”.**

1. The attached Table sets out the Welsh Assembly Government’s response to the 16 recommendations made in the above study. There are three main themes to the recommendations:
 - Theme 1 is about **improving understanding** and the relationships amongst the different players in the planning application process such as the Welsh Assembly Government, local planning authorities, developers and statutory consultees.
Recommendations 1, 2, 3, 4 and 5 are concerned with this theme.
 - Theme 2 is about the **culture** of the planning application process and striving to move from a culture of development *control* to one of proactive development *management*.
Recommendations 6, 7, 8 and 9 are concerned with this theme.
 - Theme 3 is about the **operation** of the planning application process including such issues as permitted development, pre-application discussions, validation requirements, more electronic use, consultancy services for complex applications and conditions attached to planning decisions.
Recommendations 10, 11, 12, 13, 14, 15 and 16 are concerned with this theme.
2. The authors of this Study also suggest specific partners for taking forward each of the recommendations. These partners have not been included in the Table as the inclusive working arrangements of the Welsh Assembly Government will necessarily include all the interested organisations as well as the general public in developing new policy and guidance. The implementation plan produced by the authors at Section 8 of the Study, indicates the priorities and timescales for implementing their recommendations, and the Table attached recognises these priorities so far as possible.

**Planning Division
Welsh Assembly Government.**

June 2010.

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POSITION AS AT JUNE 2010

Recommendation 1: Policy Statement on the Importance of Economic Development

Welsh Assembly Government to prepare a new policy statement on the priority to be given to economic development. Such a statement could update and expand PPW sections on economic development and provide clear direction on the weight to be given to key economic sectors and initiatives as defined in national economic strategy or the WSP. It should also provide specific guidance on the importance of small and medium sized enterprise.

Response

Accept. We will commission research under the Wales Planning Policy Research Programme, starting the procurement process in July 2010. This will evaluate existing planning policies for economic development against our economic development policies and scope future planning policy requirements against the Assembly Government’s emerging Economic Renewal Programme.

After completion of that evaluation, we will revise planning policy as appropriate and produce a “Sustainable Economic Renewal” Technical Advice Note.

Recommendation 2: Make the Planning System more Responsive to Business

Introduce a series of measures to improve the responsiveness of the planning system to business needs:

2a install simple mechanisms for the **improved exchanges between business, organisations and planning authorities** on their respective needs and requirements. Consideration needs to be given to a regular forum;

2b refresh or provide a new version of the **handbook or guide for businesses on the planning system**. A similar or parallel guide could be produced for farmers and those involved in countryside or agricultural activities;

2c consider informal or formal **consultee or advisory status for business organisations**, economic development departments and interests (or increased or equal weight to be given to their concerns). Where appropriate, special areas could be identified where increased weight should be given to economic performance; and

2d better integration of small and medium business needs in planning policy (at national level as an extension to the new Policy Statement on economic development recommended above) and at the local level in the emerging round of local development plans.

Response

2a Accept. We will consider within the current calendar year, the role of the Wales Planning Forum (the Minister's Advisory Group on land use planning) and the need to establish a new group of business and planning interests along with other mechanisms that could be used to improve dialogue.

2b Accept. We will review current advice available and produce a revised booklet for business and planning by the end of this calendar year.

2c Accept We will undertake a review of statutory and non- statutory consultees as set out in recommendation 7. Following the evaluation outlined in response to recommendation 1, we will produce a toolkit to assist local planning authorities to take into account sustainable economic development interests when preparing plans and determining planning applications.

2d Accept. We will evaluate the business community's engagement in planning policy development at national and local level and identify areas for improvement.

Recommendation 3: Design and Access Statements

Clarify the scope and content of, and the requirement trigger for, Design and Access Statements (through a Ministerial letter or statement if necessary). Consideration should be given to relaxing the trigger for the requirement and the provision of looser guidance on format and content (to reflect the scale of the proposals, their location and the issues that they raise).

Response

Accept. We will issue a clarification letter for Chief Planning Officers and other interested bodies to explain the appropriateness of Design and Access Statements in July 2010.

Recommendation 4: Guidance Process

Welsh Assembly Government to consider how it can improve the way in which guidance is issued and publicised. Given the relatively small range of practitioners in Wales, a more inclusive approach with organisations on both sides of the application process should be pursued before future requirements are mooted or made. This would help to provide guidance with a sharper practical focus.

Response

Accept. Key stakeholders are already involved in policy making from the outset of the process as part of the Welsh Assembly Government's normal working practices. But we will review the effectiveness of business engagement to identify areas for improvement as in recommendation 2. Over the medium term in 2011, we will consider the introduction of an "impact test" to ensure the implications of introducing new policy requirements are assessed fully and ensure alternative implementation mechanisms are identified as appropriate.

Recommendation 5: Pause on New Guidance (A Guidance "Amnesty")

Limit or place a hold (with the exception of recommendations made in this review) on further substantial requirements or guidance unless there is a legislative need or there is clear failure in current practice. This could be supplemented with a narrowing of the forms of advice that guidance is issued in. One specific area where additional guidance may be required is in the criteria for and operation of the call-in process. An alternative to this recommendation would be to agree and prioritise a forward programme of review, new or revised advice and guidance. This would give advanced notice and allow preparation for both consideration and implementation of the changes proposed.

Response

Accept in part. Revised policy and new guidance is not introduced lightly. Planning policy and guidance is kept under constant review and only updated where necessary. For example, a consolidated version of Planning Policy Wales was issued in early June to incorporate all the previously issued Ministerial Interim Planning Policy Statements and changes relating to climate change.

The move to electronic only production of policy and some guidance documents should aid dissemination and ease of access and updating. As indicated above, we will consider the introduction of an "impact test" to assess implications of introducing new policy requirements and identify alternative implementation mechanisms.

With regard to the **call-in process** we issued revised guidance on criteria and its operation in May 2010. This guidance is kept under continuous review and

amendments made as appropriate. The explanatory note accompanying the call-in letters is to be revised and issued in July 2010.

Recommendation 6: Development Management Principles

Adopt key principles of development management into a new policy statement (or the completion of a new Technical Advice Note 17 “Planning and Managing Development”. The key task of the new section/version will be to emphasise the positive role of the planning application process in:

- a) delivering specified national and local outcomes and objectives;
- b) encouraging (and requiring) collaboration between key parties at the earliest possible opportunity;
- c) being responsive to all involved with or affected by the planning application process;
- d) taking a wider view on the tests that new development should have to pass (to replace an overly “mechanistic” approach to decision making) that may be more responsive to national planning policy;
- e) introducing a refinement of the test that decisions must follow development plans, so that it applies *especially* to recently adopted plans, but *more loosely* to older plans that do not respond to current circumstances or needs, law, practice or guidance;
- f) making sure application requirements are proportionate to the development proposed; and
- g) making sure this runs right through the application process with a special focus on delivery.

Importantly the new version should stress that the responsibility for making these changes rests as much with applicants as it does with planning authorities, statutory and other consultees and the Assembly Government.

Response

Accept. We will review current development management policy and consider revisions and new best practice guidance to take account of the development management changes being taken forward this year as part of this project. New guidance will be issued in 2011, informed by public consultations.

Recommendation 7: Development Management – Improving Consultation

Review of statutory and non statutory consultation. The review should address:

- a) the approach to be taken in Wales to the duty to respond for statutory consultees and the scope for more focussed and more standardised

statutory consultation (with attention given to thresholds/types of development that may not trigger consultation, the timescales for dispatch of information and timescales for the receipt of responses and the categorisation of the advice given);

- b) the number of statutory consultees and the scope for removals or additions (with specific attention given to utility providers, emergency service providers and economic development or business interests). This may require a review of the General Development Procedure Order;
- c) how the public and local groups can be effectively involved in the planning application process and the decisions it makes;
- d) the impact that current consultation practice is having on decision making and decision making timescales (and whether this is proportionate), together with the resource implications of swifter and more effective consultation;
- e) the implications of failing to meet timescales for responding;
- f) how consultation at all levels is reported;
- g) the link between the quality of information submitted with applications, the time taken to respond and the effectiveness and value of the response; and
- h) the resource implications (and costs and benefits) of more effective consultation.

A head start on this review could be made with the completion of the exercise on TAN17 "Planning and Managing Development" (recommendation 6) which may include questions on consultation. Provision could then be made for key proposals or techniques in the final version of the TAN. However, if a more thorough and more specific examination is required (which this review concludes it is), then the results of this examination should be reflected in a code of conduct for statutory consultees together with a parallel guide for members of the public and community groups. A start on this could come from organisations that are already piloting their own measures (including the Coal Authority, the Environment Agency, CCW and One Voice Wales).

Response

Accept. We have started work on scoping the statutory and non statutory consultee arrangements that are in place in current policy, guidance and legislation to inform a review of these processes. We will issue a consultation paper setting out these current arrangements in July 2010. Following that review, we will consult on proposals to ensure that a proportionate approach is taken by local planning authorities and statutory and non-statutory consultees in considering different types of planning applications. We will work with statutory consultees to determine appropriate timescales for consultation responses to be made.

Recommendation 8: Development Management – Making Process and Delivery More Consistent

Issue a best practice note on the organisational delivery of the development control or management function. This should move away from an attempt to identify common management structures (which is likely to be very difficult and might cause stress with other procedures and structures) and should investigate quality and satisfaction based performance measures for the application process and the outcomes it should achieve. Particular attention should be given to the disaggregation of the basic process within specific Councils and how this can be applied to all planning authorities to unify the development management process and the (independent) measurement and comparison of its performance. An important dimension to this exercise should be the costing of the main stages of the application process and the dividend produced, so that scarce resources can be properly targeted.

Response

Accept. We will consider best practice guidance. See also the response to Recommendation 6.

Recommendation 9: The Approach to Committee

Provide a basic guide for planning authorities on the organisation of Planning Committee. The primary purpose of this guide should be to make the committee experience as predictable (and as common) as the application process. The focus should therefore be on standardising (through best practice):

- a) the advance publication of reports and submissions to Committee;
- b) the approach to speaking at Committee;
- c) membership, attendance requirements and numbers on the Committee;
- d) mandatory training requirements for members and especially for chairs and/or portfolio holders;
- e) the introduction of cooling off periods where decisions are made against officers advice;
- f) the provision for special Committees to hear particularly contentious applications and/or the introduction of special preliminary discussion or Q+A sessions for these proposals; and
- g) protocols and thresholds for applications to be heard by committee.

Consideration should also be given to the practice in Scotland where members who depart from officers' recommendations on applications are required to defend their decisions without the assistance of officers at appeals.

Response

Accept. We will review current guidance and consider best practice guidance. See the response to recommendation 6.

Recommendation 10: Extension of Permitted Development

Follow (and if possible, accelerate) the July 2009 proposals (in England) for an extension to permitted development rights in key economic sectors and/or to instigate a new General Permitted Development Order for Wales. Particular attention should be given to the floor space and volume thresholds indicated in the consultation and whether there are any specific categories in Wales which require more or less control. A similar approach should be taken to the Use Classes Order, with the Assembly Government 2006 consultation providing a useful platform for this exercise.

Response

Accept. Where we consider the approach taken in England is appropriate for Wales, we make similar legislative arrangements. It should not be assumed that Welsh Ministers take exactly the same approach as in England.

With regard to **Permitted Development** –

- Domestic dwellings microgeneration permitted development rights came into effect in September 2009.
- Non-domestic buildings microgeneration amended permitted development rights are currently the subject of public consultation ending on 3 July 2010.
- Domestic dwellings permitted development rights will be consulted upon in the Autumn.
- Non-domestic buildings permitted development rights will be consulted upon in the Autumn.

With regard to the **Use Classes Order** – the Welsh Assembly Government's formal conclusion about the outcome of the 2006 consultation, which included UCO proposed changes in Wales, will be outlined in a letter issued by the Chief Planner in July 2010.

Recommendation 11: A Practical Approach to Minor Amendments

Adopt an adjusted approach to small changes which could sit under the working title minor changes to approved schemes. This could adopt a similar practical approach to the scheme (under section 96a) for non-material amendments but would not require the submission of a formal application or request. It would, however, be supplemented by advice on what may be considered (even if this is defined by what will not – perhaps by similar tests established by permitted development rights). For minor material changes we see no need for any significant changes or departures from the DCLG's approach (apart from the excellent opportunity to embrace this more ambitious concept and the need to ensure that all permissions include a condition which includes the drawings approved – see recommendation 16).

Response

Accept. We will include in a consultation paper to issue during this calendar year.

Recommendation 12: Pre-application Discussions - Best Practice Guide

Produce a practice guide on the format of pre-application consultations. This should aim to establish common features of these discussions - which can take the DCLG's proposals as a starting point - with the addition of the scope to address the quality of information to be provided with the application. Practice can be informed by a brief review of current performance and should be issued swiftly. As a practical guide, it would benefit from joint production through the Planning Officers Society and representatives of the RTPI's consultant network, although the Assembly Government should issue and/or endorse the guide to ensure it has the required weight.

The practice guide need not (and should not) be a long document but should address the following issues:

- a) scope and extent of advice provided;
- b) the requirements of applicants;
- c) process and timescales;
- d) the approach to charging;
- e) the role and identification of key consultees and other groups; and
- f) the role of politicians.

Response

Accept. We will take forward during this year, in collaboration with Planning Officers' Society Wales and others, to identify best practice in Wales. This will clarify arrangements for both users and deliverers of the service. See also recommendation 6.

Recommendation 13: Validation Requirements

Take the best parts of current thinking on validation and apply them to Wales. However, given that there are 25 planning authorities, strong priority should be given to three key tasks:

- a) The publication of a single national list of validation requirements (according to the type of application proposed or where they are proposed for example in protected areas). The direction of travel will be that local and scheme specific reductions in requirements will be possible but that no higher requirement will be made.
- b) The categorisation of development under key main headings to guide when certain requirements are triggered. Specific attention should be given to the types of (smaller or modest) development proposals that will trigger limited information requirements to ensure that sufficient information is provided to inform safe and robust decisions.
- c) The introduction of a basic national convention for naming and indexing documents and plans (this will also be relevant to recommendation 14).

Response

Accept. We will issue a consultation package including a draft circular, and draft guidance in July 2010. This will clarify requirements for information to accompany planning applications and result in better targeted information.

Recommendation 14: Increasing Use of Electronic Planning Services

Support the increased use of electronic planning services. This should be done in the following main ways:

- a) introduce and achieve national and local targets for the submission of applications electronically within a specified timeframe. With 25 planning authorities, the clear objective should be to match and exceed performance in England;
- b) make more use of the England and Wales e consultation Hub;

- c) more use of the interactive guides. There is clear scope here to extend this concept to small business users as well (perhaps in conjunction with recommendation 2b. Implementation of recommendation 9 – changes to the GPDO - would assist in accelerating the transfer of the current householder guide to Wales);
- d) standardise access to electronic information within Local Planning Authorities. A minimum standard should be defined; and
- e) introduce a basic national convention for naming and indexing documents and plans, together with the use of more common formatting and quality assurance.

Response

Accept. Work is ongoing with the Planning Portal to increase the use of electronic planning services. Over 20% of all planning applications are submitted electronically and all 25 local planning authorities offer this bilingual on-line service. The e consultation Hub is being tested in Wales by several local planning authorities and statutory consultees including the Environment Agency and the Countryside Council for Wales.

Recommendation 15: Sharing Expertise

To deal with current and likely shortage in resources and to reflect the capacity and capability of Wales to act as one nation for planning purposes, establish a shared resource of expertise for local planning authorities to tap into. The resource could follow two basic approaches:

- a) the first would be to follow an ATLAS model and create a central panel of consultants and advisers for local authorities to call on when local expertise is not available; and
- b) the second would be to create regional centres which focus on areas which are subject to specific pressures. This should follow the Carmarthenshire model and could focus on infrastructure, minerals, waste, natural resources and energy sectors.

The two models may not be exclusive (and probably are not given the success of the minerals group). Whichever is pursued, priority should be given to coordinating expert advice and practice on development viability and the ways in which planning obligations can be used to stimulate development as well as control it. Other key issues identified during this review include community safety and the emergency services, access and disability issues (in both areas substantial progress and expertise is available through the Association of Chief Police Officers and the Access Groups); coal and mining issues (with progress made by the Coal Authority) heritage, archaeology (through the work of the Archaeological Trusts) and historic buildings.

Response

Accept in part. We will write to all Chief Planning Officers in July 2010 setting out what technical and specialist consultancy support we will procure to assist them in processing planning applications in the waste and renewable energy sectors, which have been identified as national priorities. These may involve novel or new technologies with which local planning authorities may not be familiar. This specialist consultancy support will assist local planning authorities to determine complex planning applications in a timely manner.

Recommendation 16: Planning Conditions

A rapid and thorough guidance note on the use of planning conditions should be issued. This should focus on the approach to be taken to the attachment of conditions in Wales, but should provide specific guidance on:

- a) the better categorisation of conditions;
- b) a more proportionate approach to the pre-commencement stage and pre-commencement or prior notification conditions;
- c) the inclusion of conditions that allow more flexibility to planning permissions;
- d) the involvement of statutory consultees and other groups in the drafting of conditions and approval of information submitted to discharge them;
- e) the use of the term unless otherwise agreed with the planning authority (and the limits or extension of such an approach where the condition has been requested by a third party);
- f) the connection possible between conditions and obligations;
- g) guidance on the link between effective monitoring and enforcement and the content (and scope) of planning conditions;
- h) the introduction of timescales for the discharge of conditions; and
- i) the scope to discuss conditions at the pre-application and validation stages so that applicants are aware of the likely requirements (and can make or adjust submissions accordingly).

Response

Accept. We will begin a review of conditions during 2011, which will include the issues that are identified above.