



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Planning Policy WALES



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Planning Policy Wales

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FOREWORD



Ministerial Statement by Sue Essex AM, Minister for Environment

The role of land use planning is to set the framework for the development and use of land, taking full account of economic, social and environmental issues. Land use planning has a role in supporting all the strategies of the Welsh Assembly Government which relate to the use and sustainable development of land. It contributes to economic development, to the conservation of Wales' natural assets and to the health, well-being and quality of life of individuals and communities.

Planning policy can help achieve the Assembly Government's goals:

- *Sustainable Development* – meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- *Building a dynamic and advanced economy* – supporting economic regeneration, creating wealth and good quality jobs.
- *Tackling social disadvantage* – developing an inclusive society where everyone has the chance to fulfil their potential.
- *Equal Opportunities* – promoting a culture in which diversity is valued and equality of opportunity is a reality.

The purpose of *Planning Policy Wales* is to set the context for sustainable land use planning policy, within which local planning authorities' statutory Unitary Development Plans are prepared and development control decisions on individual applications and appeals are taken.

Planning Policy Wales is a comprehensive and integrated document which has been developed in an open and inclusive way. Firstly, it has drawn heavily on the recommendations of the Land Use Planning Forum which was set up to advise me of the changes needed to planning policy. I would like to thank the organisations which contributed to the Planning Forum. Secondly, through public consultation, a significant number of other organisations and individuals submitted comments on the draft issued in February 2001. All contributions have been carefully considered and have helped to set the policy.

It is important that planning policy continues to evolve to accommodate changing circumstances and *Planning Policy Wales* will continue to be monitored and reviewed in relation to the Assembly Government's objectives for Wales. *Planning Policy Wales* is supplemented by a series of Technical Advice Notes and these will also be reviewed as necessary.

The publication of *Planning Policy Wales* marks a significant milestone. It has been established following the first review of planning policy by the Welsh Assembly Government, and sets the scene for a more sustainable future for Wales. I commend it to you and hope that it will be a helpful and comprehensive tool for all to use.

A handwritten signature in dark ink that reads "Sue Essex". The signature is written in a cursive, flowing style.

Sue Essex AM

PLANNING POLICY WALES

Foreword

Table of Contents

	Page
1 Introduction	1
1.1 What this document sets out to do	1
1.2 What the planning system is for	2
1.3 Making the planning system work better	2
1.4 The context for planning in Wales	4
2 Planning for Sustainability	10
2.1 A commitment to sustainable development	10
2.2 Principles	11
2.3 Key policy objectives	12
2.4 Priorities for urban and rural areas	15
2.5 Sustainable settlement strategy : locating new development	17
2.6 Managing urban form by means of Green Belts and green wedges	19
2.7 Preference for the re-use of land	23
2.8 Conserving the best and most versatile agricultural land	25
2.9 Promoting sustainability through good design	25
2.10 Supporting the Welsh language	27
2.11 Involving the community and preparing community strategies	28
3 Development Plans	30
3.1 A plan-led system	30
3.2 Collaborative working and consultation	31
3.3 Sustainability principles in plan preparation	31
3.4 Phasing of development	33
3.5 What happens when a development plan has not yet been adopted	34
4 Making and Enforcing Planning Decisions	36
4.1 Taking planning decisions	36
4.2 Exceptions to the process : permitted development rights	38
4.3 Environmental Impact Assessment	39
4.4 Ensuring access for all	40
4.5 Control of outdoor advertisements	41
4.6 Imposing planning conditions	42
4.7 Negotiating planning obligations	43

4.8	Enforcing planning control	44
4.9	Using Completion Notices	45
4.10	Revoking, modifying or discontinuing a planning permission	45
4.11	Planning Appeals	46
4.12	The Assembly's general role in decision taking	46
5	Conserving and Improving Natural Heritage and the Coast	48
5.1	Objectives	48
5.2	Caring for biodiversity	49
5.3	Measures to conserve landscape and biodiversity	51
5.4	UDPs and the conservation and improvement of the natural heritage	56
5.5	Development control and the conservation and improvement of the natural heritage	58
5.6	Managing the coast	62
5.7	UDPs and the coast	63
5.8	Development control and the coast	64
6	Conserving the Historic Environment	65
6.1	Objectives	65
6.2	Working with other agencies	65
6.3	Designating Conservation Areas	66
6.4	UDPs and the historic environment	67
6.5	Development control and the historic environment	69
7	Supporting the Economy	76
7.1	Objectives	76
7.2	Designating land for employment needs	78
7.3	Promoting diversification in the rural economy	79
7.4	Promoting the green economy, business and technology clusters and social enterprises	80
7.5	UDPs and the economy	80
7.6	Development control and the economy	82
8	Transport	86
8.1	Objectives	86
8.2	Promoting walking and cycling	88
8.3	Supporting public transport	88
8.4	Managing traffic and parking	89
8.5	Planning for roads, airports, ports and inland waterways	91
8.6	UDPs and transport	94
8.7	Development control and transport	95

	Page
9	Housing 98
	9.1 Objectives 98
	9.2 UDPs and new housing provision 99
	9.3 Development control and housing 106
10	Planning for Retailing and Town Centres 109
	10.1 Objectives 109
	10.2 UDPs and retailing and town centres 110
	10.3 Development control and retailing and town centres 113
11	Tourism, Sport and Recreation 118
	11.1 Objectives 118
	11.2 UDPs and tourism, sport and recreation 120
	11.3 Development control and tourism, sport and recreation 122
12	Infrastructure and Services 123
	12.1 Objectives 123
	12.2 Water supply and waste water management 125
	12.3 UDPs and water 125
	12.4 Development control and water 125
	12.5 Planning to reduce and manage waste 126
	12.6 UDPs and waste planning 127
	12.7 Development control and waste planning 128
	12.8 Sustainable energy 128
	12.9 UDPs and sustainable energy 131
	12.10 Development control and sustainable energy 132
	12.11 Telecommunications 132
	12.12 UDPs and telecommunications 132
	12.13 Development control and telecommunications 133
13	Minimising and Managing Environmental Risks and Pollution 136
	13.1 Objectives 136
	13.2 Flood risk and climate change 137
	13.3 UDPs and flood risk 138
	13.4 Development control and flood risk 139
	13.5 Dealing with unstable and contaminated land 140
	13.6 UDPs and contaminated land 140
	13.7 Development control and contaminated land 141
	13.8 UDPs and unstable land 142
	13.9 Development control and unstable land 143
	13.10 Improving the quality of water and air 144

	Page
13.11 UDPs and improving the quality of water and air	145
13.12 Development control and improving the quality of water and air	146
13.13 Reducing noise and light pollution	147
13.14 UDPs and noise and lighting	147
13.15 Development control and noise and lighting	148
ANNEX Planning Policy Wales, Technical Advice Notes (Wales)	149
INDEX	151
List of figures and maps	
Map 2.1 Planning context for Wales	16
Figure 2.1 Definition of previously developed land	24
Map 5.1 Landscape designations, environmentally sensitive areas and heritage coasts	53
Map 5.2 Nature conservation designations	54
Map 8.1 Transport Infrastructure	92

How to use this document:

The introductory chapter, which includes a section on the **context for planning in Wales**, is followed by a chapter setting out the **main policy objectives and principles**. Chapters 3 and 4 collect together all the guidance relating to the **description of the planning system** and its **principal procedures**. Chapters 5-13 then deal with particular subjects.

Each of the subject chapters begins with a statement of the **Welsh Assembly Government's objectives** for that subject. These chapters also contain sections on how the subject should be treated in **Unitary Development Plans (UDPs)** and for **Development Control** purposes. The UDP sections also include a checklist for Part 1 and Part 2 of the UDP. Both the UDP and Development Control sections are usually located at the end of the chapter. The exceptions to this are Chapters 5, 12 and 13, due to the variety of topics covered.

Reference documents and **explanatory notes** are indicated in the text using superscript numbers and listed in a column in the right-hand margin (reference documents are in red and explanatory notes are in black). They provide information that should be read in conjunction with this document.

Cross-references are used to indicate where in this document further or related guidance is set out.

A **topic index** is included at the end of the document. This highlights the main topic areas and is not intended to be fully comprehensive.

CHAPTER 1 INTRODUCTION

1.1 What this document sets out to do

1.1.1 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Assembly Government (the Assembly Government). It is supplemented by a series of Technical Advice Notes (TANs, listed in the Annex). Procedural advice is given in National Assembly for Wales / Welsh Office circulars. PPW, the TANs and circulars together comprise national planning policy which should be taken into account by local planning authorities in Wales in the preparation of unitary development plans (UDPs). They may be material to decisions on individual planning applications and will be taken into account by the National Assembly for Wales (the Assembly) and Planning Inspectors in the determination of called-in planning applications and appeals. Detailed advice on the preparation of UDPs is contained in *Unitary Development Plans Wales, 2001*.

1.1.2 Reference documents (listed in the reference column in the margin) provide information that should be read in conjunction with this document.

1.1.3 *Planning Guidance (Wales): Planning Policy, April 1999* is hereby cancelled.

1.1.4 Because of the differences between mineral working and other forms of development the Assembly Government's land use planning policies for minerals development are contained in a separate document *Minerals Planning Policy Wales*¹. This sets out policy in relation to short and long term future use and the safeguarding of mineral deposits.²

1.1.5 PPW will continue to be monitored and reviewed in relation to the Assembly Government's objectives for Wales. The planning objectives set out in PPW will be refined to enable effective monitoring. UDPs will be appraised to see how well they reflect policy in PPW and in terms of their capacity to ensure sustainable patterns of development in future. Any changes or additions to policy which are agreed before a revised version of PPW is issued will be notified by Ministerial Statement and will subsequently be published as numbered Interim Planning Statements to PPW. Such statements will be available on the Assembly's website at www.wales.gov.uk. Alternatively, details can be obtained by telephoning the Planning Division on (029) 20 823869.

¹ 'Minerals Planning Policy Wales', National Assembly for Wales, 2000

² A series of Minerals Technical Advice Notes (Wales) to support 'Minerals Planning Policy Wales' is being developed and will be available in due course.

INTRODUCTION

1.2 What the planning system is for

1.2.1 The planning system regulates the development and use of land in the public interest. It should reconcile the needs of development and conservation, securing economy, efficiency and amenity in the use of land, and protecting natural resources and the historic environment, thereby contributing to sustainable development.

1.2.2 The planning system must provide for an adequate and continuous supply of land, available and suitable for development to meet society's needs. It must do this in a way that is consistent with overall sustainability principles (see 2.2) and objectives (see 2.3 and 2.4), which reflects the Wales Spatial Plan (see 1.4.15 and 2.5) and which takes account of the detailed policies on the different topic areas set out in this document.

1.2.3 The planning system should be efficient, effective and simple in operation. It is not the function of the planning system to interfere with or inhibit competition between users of and investors in land or to regulate development for other than land use planning reasons.

1.2.4 The planning system normally should not be used to secure objectives achievable under other legislation. The principle of non-duplication should be maintained even though the powers and duties resulting from other legislation may also be the concern of local authorities.

1.2.5 However, provided a consideration is material in planning terms (see 4.1.2 to 4.1.4) it must be taken into account in dealing with a planning application even though other machinery may exist for its regulation. Even where consent is needed under other legislation, the planning system may have an important part to play, for example in deciding whether the development is appropriate for the particular location. The grant of planning permission does not remove the need to obtain any other consent that may be necessary, nor does it imply that such consents will be forthcoming.

1.3 Making the planning system work better

1.3.1 The Assembly Government is committed to modernising our public services^{3,4}. The standard of public services must be raised to make them more responsive to the wishes and needs of their users. To improve the transparency of planning processes, each local

References

3 'Service First: The New Charter Programme', Cabinet Office, 1998

4 'Development Control in National Parks: A Guide to Good Practice', the Countryside Commission and the Association of National Park Authorities, 1996

References

planning authority should produce a document setting out the procedures, processes and code of practice relating to the planning system.

1.3.2 As part of the overall process of modernising local government in Wales, all local authorities now have a statutory duty to strive for the continuous improvement of services. Each local authority must prepare an annual performance plan, reviewing services and establishing action plans which demonstrate how improvements are to be achieved. The aim is for authorities to provide the highest quality services which are efficient and cost effective, monitoring this using performance indicators. The Assembly Government's indicators cover UDPs, aspects of development control and the quality of customer service.^{5,6}

1.3.3 Each planning authority should:

- set performance standards, publicise them and monitor and review performance, using the results to secure continuous improvements to the service;
- communicate effectively, giving clear, full information about how people can participate in planning matters;
- ensure that all interested parties are fully consulted, particularly about UDPs and planning applications;
- make services easily available to all who need them, using technology to the full;
- use resources effectively, working with others to provide co-ordinated services, treating everyone fairly; and
- have an effective, easy to use complaints system which allows matters to be put right quickly and effectively.

1.3.4 Participation is an essential part of the planning process, and authorities are required to be as open as possible in making planning information publicly available. While authorities have legal obligations to make certain information available, they should consider ways in which they can **provide better access to information**, in accessible formats, in a reasonable time and at reasonable cost, to ensure better involvement by all members of the community, recognising that people with disabilities, mobility problems or other special needs have the right to be involved.

5 'Local Voices: Modernising Local Government in Wales', Welsh Office White Paper, July 1998

6 National Assembly for Wales Circular 8/2001, 'Local Government Act 1999: Guidance on Best Value Performance Indicators in Wales 2001-02'

INTRODUCTION

1.3.5 Local planning authorities must take appropriate steps to satisfy themselves, and be able to demonstrate, that their policies, operational practices and organisational culture do not lead to any systematic unfairness in the treatment of any group in the population. The outputs of the planning system, particularly those where discretion is central, should be monitored and the results made widely available⁷.

1.3.6 It is essential that UDPs are prepared as soon as possible so as to provide a firm basis for planning decisions, particularly where existing plans are not up to date. Local planning authorities should set and publish targets for plan preparation, and give priority to the process using project management approaches to monitor and review progress.

1.3.7 **Performance targets for planning applications** are established in law. There is a statutory duty for local planning authorities to determine planning applications within 8 weeks of the receipt of a valid planning application (or 16 weeks where applications require an Environmental Statement). This period can be extended with the agreement of the applicant.

1.3.8 Minor applications should be determined within this 8-week period. However, it is accepted that some large or complex proposals may take longer. Planning authorities should seek to agree a timetable for handling such applications with the developer. Well-managed pre-application discussions are an important part of the planning process. They can improve the quality of applications and help reduce the time taken to deal with a formal application. It is important that development proposals are handled efficiently and the Assembly Government expects each local planning authority to determine 80 per cent of its planning applications within 8 weeks of receipt of a valid application. Improved efficiency of decision making should not compromise the quality of either the decision making process or the development.

1.4 The context for planning in Wales

1.4.1 The **primary legislation** related to land-use planning is contained in:

- the Town and Country Planning Act 1990;
- the Planning (Listed Buildings and Conservation Areas) Act 1990;

References

7 Government of Wales Act 1998, Section 120

- the Planning (Hazardous Substances) Act 1990.

Each of these Acts has been amended by the Planning and Compensation Act 1991.

1.4.2 Other amendments, related to the establishment of unitary authorities in Wales, and requiring authorities to produce UDPs, are contained in the Local Government (Wales) Act 1994. Additionally, the Environment Act 1995, in amending the Town and Country Planning Act 1990, established National Park authorities in Wales as local planning authorities.

1.4.3 The main instruments of **subordinate legislation** are:

- the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (SI 1995 No 418);
- the Town and Country Planning (General Development Procedure) Order 1995 (GDPO) (SI 1995 No 419);
- the Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order) (SI 1987 No 764);
- the Town and Country Planning (Development Plan) Regulations 1991 (SI 1991 No 2794);
- the Town and Country Planning General Regulations 1992 (SI 1992 No 1492).

1.4.4 The Assembly has specific duties regarding equal opportunities and sustainable development under the **Government of Wales Act**⁸. Sections 120 and 121 respectively set out the Assembly's duty to ensure that in the exercise of its functions it has regard to the principle that there should be equality of opportunity for all people and that it promotes sustainable development. Both of these duties have implications for the planning system and later sections of this document refer to them where appropriate.

8 Government of
Wales Act 1998

1.4.5 **The Human Rights Act**⁹ came into force on 2 October 2000 to incorporate the provisions of the European Convention on Human Rights (ECHR) into UK law and enable the UK courts to enforce these rights. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every individual together with the limitations placed on these rights in order to protect the rights of others and of the wider community. The Human Rights Act makes it unlawful for a public

9 Human Rights Act
1998

INTRODUCTION

authority to act incompatibly with these ECHR rights except where, as a result of primary legislation, it could not have acted differently. The Human Rights Act has implications for the planning system. Guidance will be issued as and when necessary.

1.4.6 The **European context** for planning policy and the preparation of UDPs is provided by:

- **European Union (EU) legislation** (a range of Directives and Regulations, along with judgements of the European Courts). Later chapters of this document refer to specific EU Environment Directives where these need to be taken into account.
- The **6th Environmental Action Programme**.¹⁰
- The **European Spatial Development Perspective (ESDP)**¹¹ drawn up by the Member States in co-operation with the European Commission; and
- **EU funding** regimes.

1.4.7 Against the background of global economic and technological developments, as well as general demographic, social and ecological trends, long-term spatial development patterns in the EU are especially influenced by three factors which provide the framework for the increased cohesion of the European territory :

- the progressive economic integration and related increased co-operation between the Member States;
- the growing importance of local and regional communities and their role in spatial development; and
- the anticipated enlargement of the EU and the development of closer relations between the EU and its neighbours.

1.4.8 In this context, the ESDP establishes broad guidelines which should be taken into account in drawing up and implementing 'spatially significant sectoral policies at community, national, regional and local levels'. The key spatial development principles of the ESDP are:

- development of a polycentric and balanced urban system and strengthening of the partnership between urban and rural areas;

References

10 'Environment 2010: Our Future, Our Choice – 6th Environmental Action Programme', European Commission, 2001

11 'The European Spatial Development Perspective – Towards Balanced and Sustainable Development of the Territory of the European Union', European Commission, 1999

- promotion of integrated transport and communication concepts, which support the polycentric development of the EU territory;
- sustainable development and conservation of the natural and the cultural heritage through wise management.

1.4.9 The knowledge base for action on the ESDP will be provided by the European Spatial Planning Observation Network (ESPON).

1.4.10 Fundamental for successful implementation of the approach to territorial development established in the ESDP will be co-operation between different governmental and administrative levels and a willingness to work across regional boundaries, contiguous and non-contiguous. Substantial financial support for transnational co-operation on spatial planning will be provided by INTERREG IIIA, B and C. INTERREG is one of the four Community Initiatives established within the framework of the European Structural Funds, the other three being LEADER+, Equal and URBAN II, all of which apply in Wales.

1.4.11 In general, EU Structural Funds for the period 2000-2006 are having a major impact in Wales, especially on regional economic development strategies, with consequent impacts on the demand for and supply of employment land. Implementation of the Objective 1 programme for West Wales and the Valleys, the Objective 2 programme covering parts of Powys, Cardiff, and Newport, the Objective 3 programme which applies to all of Wales outside the Objective 1 area, and the Rural Development Plan for Wales has now begun. EU Guidelines for Structural Funds programming¹² and for a range of other budget lines including, for example, LIFE Environment¹³ are informative for land use planning in Wales, stressing, for example, the desirability of reducing the overall environmental impact (or 'ecological footprint') of development.¹⁴

1.4.12 Key issues at European and international levels and for Wales are **climate protection** and **preparing for the effects of climate change**. It is essential to continue to promote actions which do not exacerbate climate change, but it is too late to prevent some changes from occurring. Although it is not certain how much the climate will change, the UK Climate Impacts Programme predicts that the climate of Wales will become warmer and wetter, with more precipitation in winter and less in summer¹⁵. Predictions indicate that sea levels will rise and that there will be higher wind speeds, with more frequent and more violent storms and more very severe gales.

References

12 European Commission Communication concerning the Structural Funds and their co-ordination with the Cohesion Fund – Guidelines for programmes in the period 2000 to 2006 (OJ C 267, 22.9 1999)

13 European Commission Application Guide for financial support from the EC financial instrument for the environment LIFE-Environment, Demonstration projects, June 2001

14 European Commission Communication Sustainable Urban Development in the European Union: A Framework for Action COM(98)605, October 1998

15 'Wales: Changing Climate, Challenging Choices – a Scoping Study of Climate Change Impacts in Wales', Ed. JF Farrar and P Vaze, National Assembly for Wales, 2000.

INTRODUCTION

Climate change will :

- impact upon our natural environment and built heritage¹⁶;
- alter the environment in which our economy operates; and
- increase the importance of water management to prevent flooding and ensure an adequate water supply¹⁷.

1.4.13 Climate change presents not only risks to people, property and resources but also new opportunities. Carefully planned adaptation, involving consultation and close co-operation across sectors, will be needed in order to achieve the necessary integration of mitigation measures, and the planning system will have a role in ensuring this.

1.4.14 Planning also has a direct role to play in relation to the effects of climate change, especially to avoid mis-matches between likely future effects – especially severe winter storms, subsidence resulting from the ground drying out in summer, flooding and, in the longer term, possible sea level rise - and the location and design of buildings^{18,19}. Both planning and the building industry must take account of the weather conditions that may prevail during the life of a development. Since warmer, drier summers will lead to increased pressure on water supplies, the planning of new development should be linked to the availability of water resources and environmentally-sound ways of managing demand (see Sections 12.2 to 12.4). Planning of developments in flood prone coastal areas and flood plains should take account of the likely frequency and severity of floods expected during the life of buildings (see Sections 5.6 to 5.8 and 13.2 to 13.4).

1.4.15 The Assembly Government is committed to the preparation of a **Wales Spatial Plan**. This will be a spatial expression of the Assembly Government's policies. It will address issues of restraint and development on a broad scale and provide a context for major decisions and the allocation of resources. It will be prepared in accordance with the Assembly's Sustainable Development Scheme and support other Assembly Government initiatives such as the National Economic Development Strategy (*A Winning Wales*)²⁰, the Transport Framework and the Rural Development Plan. The Wales Spatial Plan will reflect the planning policies set out in PPW; it will set

References

16 'Climate Change and UK Nature Conservation: A Review of the Impact of Climate Change on UK Species and Habitat Conservation Policy', ADAS 2000

17 'Climate Change: Assessing the impacts – identifying the responses', DETR/UK Climate Impacts Programme, 2000

18 'Climate Change: the UK Programme', Department of the Environment, Transport and the Regions, Scottish Executive, National Assembly for Wales and Department of the Environment (Northern Ireland), 2000

19 'Climate Change Wales – Learning to live differently', National Assembly for Wales, 2001

20 'A Winning Wales, The National Economic Development Strategy of the Welsh Assembly Government', Welsh Assembly Government, 2001

References

the context for local planning authority plan making and decision making. It will incorporate a regional element which can build upon existing collaborative working by local planning authorities. Prior to the completion of the Wales Spatial Plan, the Assembly Government's present spatial strategy is expressed through the guidance for different topics in this document. The main strands of this strategy are summarised in Chapter 2.

CHAPTER 2 PLANNING FOR SUSTAINABILITY

References

2.1 A commitment to sustainable development

2.1.1 The Assembly will promote sustainable development, that is, development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

2.1.2 This commitment is based upon the Assembly's duty under Section 121 of the Government of Wales Act 1998 to promote sustainable development in the exercise of its functions. The Act requires the Assembly to prepare a Scheme setting out how it proposes to fulfil this duty. The *Sustainable Development Scheme* (set out in the document *Learning to Live Differently*, adopted by the Assembly in November 2000¹) and *Plan for Wales 2001*² (the Assembly Government's Strategic Plan) establish what the Assembly Government intends to do, and by when, and describe how progress will be monitored. They provide the over-arching framework within which the Assembly Government will both review existing strategies, policies, programmes and grant schemes, and develop new ones.

2.1.3 The Assembly Government is promoting sustainable development:

- by placing sustainability at the heart of its decision-making processes;
- by working with others, such as local government, businesses, Assembly Sponsored Public Bodies (ASPBs), Executive Agencies and the voluntary sector;
- through specific policy actions; and especially
- through its strategic policies, *Planning Policy Wales* being one of these.

2.1.4 Both the Assembly's *Sustainable Development Scheme* and the UK vision of sustainable development³, stress that working towards sustainable development means pursuing four 'objectives' at the same time, namely :

- social progress which recognises the needs of everyone;
- effective protection of the environment;
- prudent use of natural resources; and

1 'Learning to Live Differently', National Assembly for Wales, 2000

2 'Plan for Wales 2001', National Assembly for Wales, 2001

3 'A Better Quality of Life: A Strategy for Sustainable Development for the United Kingdom', DETR, 1999

- the maintenance of high and stable levels of economic growth and employment.

2.1.5 The planning system has a fundamental role in delivering sustainable development in Wales. It must help in the process of balancing and integrating these objectives in order to meet current development needs while safeguarding those of the future. In particular the planning system, through both UDPs and the development control process, must provide for homes, infrastructure, investment and jobs in a way which is consistent with sustainability principles⁴.

2.2 Principles

2.2.1 The following principles underpin the Assembly Government's approach to planning policy for sustainable development :

- putting people, and their quality of life now and in the future, at the centre of decision-making;
- ensuring that everyone has the chance to obtain information, see how decisions are made and take part in decision-making;
- taking a long term perspective to safeguard the interests of future generations, whilst at the same time meeting needs of people today;
- respect for **environmental limits**, so that resources are not irrecoverably depleted or the environment irreversibly damaged. This means, for example, contributing to climate protection, protecting and enhancing biodiversity, minimising harmful emissions, and promoting sustainable use of natural resources;
- applying the **precautionary principle**. Cost-effective measures to prevent possibly serious environmental damage should not be postponed just because of scientific uncertainty about how serious the risk is;
- using **scientific knowledge to aid decision-making**, and trying to work out in advance what knowledge will be needed so that appropriate research can be undertaken;
- while preventing pollution as far as possible, ensuring that the **polluter pays** for damage resulting from

References

4 Good practice guidance on sustainability appraisal of local authority UDPs is in preparation and due to be published by the Welsh Assembly Government in 2002.

pollution. In general the Assembly Government will seek to ensure that costs are met by those whose actions incur them;

- applying the **proximity principle**, especially in managing waste and pollution. This means solving problems locally rather than passing them on to other places or to future generations;
- taking account of the full range of costs and benefits, including those which cannot be easily valued in money terms, when making plans and decisions, and taking account of timing, risks and uncertainties.

2.3 Key policy objectives

2.3.1 The following broad objectives, which derive from these principles and reflect both the sustainable development agenda and the emerging priorities in the Wales Spatial Plan, should be taken into account in the preparation of UDPs and in the control of development throughout Wales. Detailed application of some of these objectives is explored in later sections of this chapter. Chapters 5 to 13 consider in more detail the responsibilities and scope for action of local planning authorities in these policy fields and provide guidance as to how they can be met. The following points include in brackets an indication of where in this document further guidance is set out.

2.3.2 Planning policies and proposals should:

- Promote resource-efficient settlement patterns that minimise land-take (and especially extensions to the area of impermeable surfaces) and urban sprawl, especially through preference for the re-use of suitable previously developed land and buildings, wherever possible avoiding development on greenfield sites (Sections 2.6, 2.7).
- Locate developments so as to minimise the demand for travel, especially by private car (Section 2.5, Chapter 8).
- Contribute to climate protection by encouraging land uses that result in reduced emissions of greenhouse gases, in particular energy-efficient development, and promoting the use of energy from renewable sources (Section 2.5, 2.9.2 and Chapter 12).

- Minimise the risks posed by, or to, development on, or adjacent to, unstable or contaminated land and land liable to flooding. This includes managing and seeking to mitigate the effects of climate change (Chapter 13).
- Play an appropriate role in securing the provision of infrastructure (including water supplies, sewerage and associated waste water treatment facilities, waste management facilities, energy supplies and distribution networks) – the basis for sustainable communities - and telecommunications infrastructure, while ensuring proper assessment of their sustainability impacts (Chapter 12).
- Contribute to the protection and improvement of the environment, so as to improve the quality of life, and protect local and global ecosystems. In particular, planning should seek to ensure that development does not produce irreversible harmful effects on the natural environment. The conservation and enhancement of statutorily designated areas and of the countryside and undeveloped coast; the conservation of biodiversity, habitats, and landscapes; the conservation of the best and most versatile agricultural land; and enhancement of the urban environment all need to be promoted (2.8, 2.9.7, Chapter 5).
- Help to ensure the conservation of the historic environment and cultural heritage, acknowledging and fostering local diversity (2.9.7 and Chapter 6).
- Minimise the use of non-renewable resources, and, where it is judged necessary to use them, maximise efficiencies in their use. The use of renewable resources and of sustainably-produced materials from local sources should be encouraged (2.9.2 and 2.9.7).
- Encourage opportunities to reduce waste and all forms of pollution and promote good environmental management and best environmental practice (2.9.2, Chapters 12 and 13).
- Ensure that all local communities – both urban and rural – have sufficient good quality housing for their needs, including affordable housing for local needs and for special needs where appropriate, in safe neighbourhoods (2.9.6, Chapter 9).

PLANNING FOR SUSTAINABILITY

- Promote access to employment, shopping, education, health, community, leisure and sports facilities and open and green space, maximising opportunities for community development and social welfare (Sections 2.4 and 2.5, Chapters 7,10 and11).
- Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity. In general, developments likely to support the achievement of an integrated transport system should be encouraged (Section 2.5, Chapter 8).
- Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone which the development of land and buildings provides. This includes helping to ensure that development is accessible by means other than the private car (Section 2.5, 2.9.5).
- Promote quality, lasting, environmentally-sound and flexible employment opportunities (Chapter 7).
- Support initiative and innovation and avoid placing unnecessary burdens on enterprises (especially small and medium sized firms) so as to enhance the economic success of both urban and rural areas, helping businesses to maximise their competitiveness (Chapter 7).
- Respect and encourage diversity in the local economy (Section 2.4, Chapter 7).
- Promote a greener economy and social enterprises (Section 7.4).
- Contribute to the protection and, where possible, the improvement of people's health and well-being as a core component of sustainable development. Consideration of the possible impacts of developments – positive and/or negative – on people's health at an early stage will help to clarify the relevance of health and the extent to which it needs to be taken into account (Sections 2.5, 8.1, 11.1, Chapter 12).

References

2.4 Priorities for urban and rural areas

References

2.4.1 Recognising the strengths of urban communities, which are home to the majority of the population of Wales, the Assembly Government's priorities for **urban areas** are, through integrated approaches, to :

- secure environmentally-sound and socially inclusive regeneration in those urban areas which require it, so that they become more desirable places in which to live and work⁵; and
- foster sustainable change, in particular making it possible to live with less noise, congestion and traffic pollution, and improving the quality of life⁶.

Development can help to arrest the decline in community facilities⁷ and deliver environmentally-sound modernisation, re-use or replacement of urban infrastructure.

2.4.2 An effective way to achieve regeneration is to foster integrated communities within the existing settlement pattern by promoting mixed use development, comprising appropriate combinations of housing (including affordable housing), employment, retailing, education, leisure and recreation uses and open space. Such developments should be promoted through, and fully justified in, the UDP.

2.4.3 Within urban areas, UDPs may designate action areas within which comprehensive treatment should start within ten years of deposit.

2.4.4 Priorities for **rural areas** are to secure:

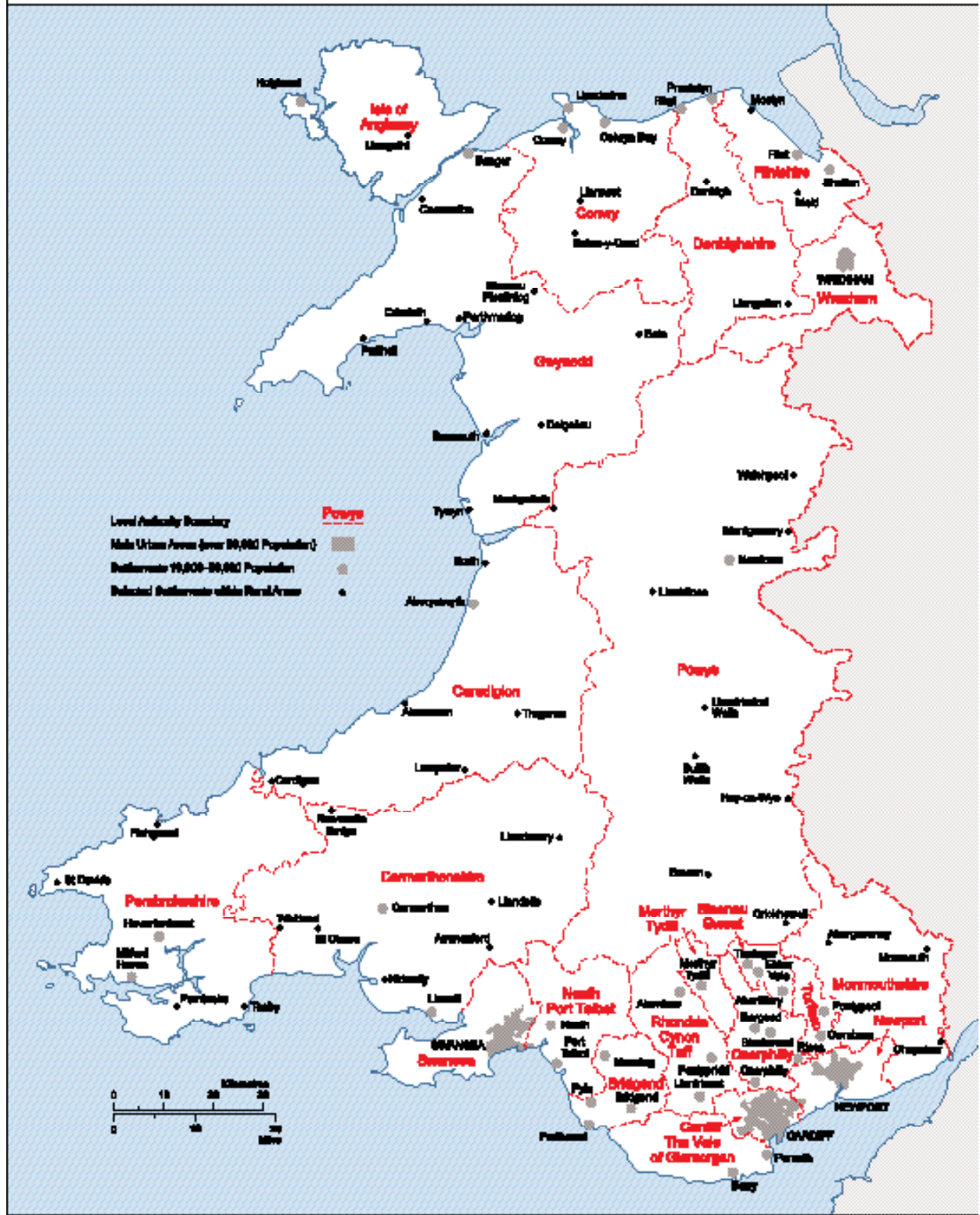
- sustainable rural communities with access to high quality public services;
- a thriving and diverse local economy where agriculture-related activities are complemented by sustainable tourism and other forms of employment in a working countryside; and
- an attractive, ecologically rich and accessible countryside in which the environment and biodiversity are conserved and enhanced.

5 The Urban White paper 'Our Towns and Cities: The Future – Delivering an Urban Renaissance'. DETR, 2000

6 'Planning for Sustainable Development: Towards Better Practice', DETR, 1998

7 'Communities First: Second Consultation Paper'. National Assembly for Wales, 2000

Map 2.1 Planning Context for Wales



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Based on the Ordnance Survey map

Data courtesy of Welsh Assembly Government

2.4.5 The countryside is a dynamic and multi-purpose resource. In line with sustainability principles, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological and agricultural value and for its landscape and natural resources, balancing the need to conserve these attributes against the economic, social and recreational needs of local communities and visitors.

2.4.6 For these aims and priorities to be realised it will be essential that social, economic and environmental policies are fully integrated. The preparation of **integrated rural development strategies** is recommended (see Chapter 7).

2.5 Sustainable settlement strategy: locating new development

2.5.1 UDPs will need to reflect the policy goals of the Wales Spatial Plan. UDPs will have a major role in setting out the vision for sustainable communities in Wales. This vision should consider not only the needs of existing urban and rural areas but also future relationships between urban settlements and their rural hinterlands.

2.5.2 UDPs need to provide a framework to stimulate, guide and manage change towards sustainability. They should secure a sustainable settlement pattern which meets the needs of the economy, the environment and health⁸, while respecting local diversity and protecting the character and cultural identity of communities. In their land allocation policies and proposals, local planning authorities should :

- promote sustainable patterns of development, identifying previously developed land and buildings, and indicating locations for higher density development at hubs and interchanges and close to route corridors where accessibility on foot and by bicycle and public transport is good;
- maintain and improve the vitality, attractiveness and viability of town, district, local and village centres (Chapter 10);
- foster development approaches that recognise the mutual dependence between town and country, thus improving linkages between urban areas and their rural surroundings.

References

⁸ 'Better Health, Better Wales', National Assembly for Wales, 2000

2.5.3 Local planning authorities should assess the extent to which their UDP settlement strategies and new development are consistent with **minimising the need to travel and increasing accessibility by modes other than the private car**. A broad balance between housing and employment opportunities should be promoted to minimise the need for long distance commuting. Local authorities should adopt policies to locate major generators of travel demand such as housing, employment, retailing, leisure and recreation, and community facilities including libraries, schools and hospitals within existing urban areas or in other locations which are, or can be, well served by public transport, or can be reached by walking or cycling⁹. Preparing accessibility profiles for public transport, walking, cycling and freight may assist local authorities in plan preparation and assessing possible development sites. Wherever possible travel intensive developments should be located at major public transport nodes or interchanges. **Higher density development**, including residential development should be encouraged, near public transport nodes, or near corridors well served by public transport (or with the potential to be so served)¹⁰.

2.5.4 Planning authorities should reassess development sites which are highly accessible to non-car modes and allocate them for travel intensive uses such as offices, shopping, leisure, hospitals and housing of sufficient density to fully utilise their accessibility potential. Sites which are unlikely to be well served by public transport, walking and cycling should either not be allocated for development or be allocated or reallocated for uses which are not travel intensive.

2.5.5 UDPs should **encourage a mix of uses in town centres** and other appropriate places to add activity and choice of places in which to live. Integration of different uses in accessible locations can increase social inclusion, reduce the need to travel and make towns safer for people both day and night. Mixed use can incorporate all or a selection of office, industrial, leisure, retail, community and residential uses if sensitively designed (2.9.3 and 2.9.4). UDPs should identify the range of facilities and activities that communities wish to be provided and maintained in urban locations. Plans should encourage the clustering of complementary enterprises in industrial and commercial areas so as to reduce traffic generation.

2.5.6 For most rural areas the opportunities for reducing car use and increasing the use of public transport, walking and cycling are more limited than in urban areas. **In rural areas the majority of new**

References

9 'The Application of Accessibility Methodologies to Land Use Planning' National Assembly for Wales, 2001

10 'Transport Development Areas – a study into achieving higher density development around public transport nodes', RICS, 2000

development should be located in those settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole. Local service centres, or clusters of smaller settlements where a sustainable functional linkage can be demonstrated, should be designated by local authorities and be identified as the preferred locations for most new development including housing and employment provision. The approach should be supported by the Local Transport Plan (LTP) strategy and, where appropriate, the service delivery plans of local service providers.

2.5.7 **Development in the countryside** should be located within and adjoining those settlements where it can be best accommodated in terms of infrastructure, access and habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, but new building in the open countryside away from existing settlements or areas allocated for development in UDPs must continue to be strictly controlled. All new development should respect the character of the surrounding area and should be of appropriate scale and design.

2.6 Managing urban form by means of Green Belts and green wedges¹¹

2.6.1 Around towns and cities there is often the need to protect open land. Local planning authorities need to **consider establishing Green Belts and making local designations, such as green wedges**. Both Green Belts and green wedges must be soundly based on a formal assessment of their contribution to urban form and the location of new development and can take on a variety of spatial forms. The essential difference between them is the issue of permanence. **Land within a Green Belt should be protected for a longer period than the current UDP period, whereas green wedge policies should be reviewed as part of the UDP review process.**

2.6.2 Both Green Belts and green wedges can :

- provide opportunities for access to the open countryside;
- provide opportunities for outdoor sport and outdoor recreation;
- maintain landscape / wildlife interest;
- retain land for agriculture, forestry, and related purposes; and

References

¹¹ The terms 'Green Belt' and 'green wedge' are used in this section as this terminology is widely understood. There are other terms for local designations, but for the purpose of this section these are encompassed by the term 'green wedge'.

- improve derelict land.

However, the extent to which the use of land fulfils these objectives is not a material factor in determining whether land should be included within a Green Belt or green wedge.

2.6.3 The **purpose of a Green Belt** is to:

- prevent the coalescence of large towns and cities with other settlements;
- manage urban form through controlled expansion of urban areas;
- assist in safeguarding the countryside from encroachment;
- protect the setting of an urban area;
- assist in urban regeneration by encouraging the recycling of derelict and other urban land.

2.6.4 All local planning authorities in parts of Wales which are subject to significant pressures for development must consider the need for Green Belts. Green Belts will not necessarily need to extend in a continuous band around an urban area.

2.6.5 **The most important attributes of Green Belts are their permanence and their openness.** In respect of permanence, the boundaries of Green Belts should be altered only in exceptional circumstances and land within a Green Belt should be protected for a longer period than the current UDP period. To maintain openness, development within a Green Belt must be strictly controlled. The general policies controlling development in the countryside apply in a Green Belt but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation (see 2.6.14 to 2.6.18).

2.6.6 Green Belts should be established through UDPs. Before designating land around an urban area as a Green Belt, local planning authorities must consider and justify which would be the most appropriate means of protection. When including Green Belt policies in their plans, authorities must demonstrate why normal planning and development control policies would not provide the necessary protection.

2.6.7 Green Belt boundaries should be chosen carefully using physical features and boundaries to include only that land which it is necessary to keep open in the longer term. Where the designation of a Green Belt is likely to affect more than one local authority, consultation will be necessary with all authorities likely to be affected.

2.6.8 Since Green Belts require long term protection, when considering Green Belt designation local planning authorities will need to ensure that a sufficient range of development land is available which is suitably located in relation to the existing urban edge and the proposed Green Belt, bearing in mind the longer term need for development land, the effects of development pressures in areas beyond the Green Belt and the need to minimise demand for travel. This may require land to be safeguarded, and boundaries of a proposed Green Belt must be carefully defined to achieve this.

2.6.9 Settlements and other developed sites within a Green Belt should only be included as part of the Green Belt if no new building, or infilling only, is proposed. Policies should list and define the boundaries of settlements where infilling would be permitted. Settlements and other sites where limited expansion is proposed should be excluded from the Green Belt and policies for those settlements should be included in the UDP.

2.6.10 **Local designations such as green wedges** may be justified where land is required to serve the same purpose to a Green Belt (see 2.6.3), but these designations do not convey the permanence of a Green Belt.

2.6.11 Like Green Belts, green wedges should be established through UDPs. Local planning authorities should only maintain green wedges where they can demonstrate that normal planning and development control policies cannot provide the necessary protection. They should state in their UDPs the areas that require extra protection and why.

2.6.12 In defining green wedges it is important to include only land that is strictly necessary to fulfil the purposes of the policy. Factors such as openness, topography and the nature of urban edges should be taken into account. Clearly identifiable physical features should be used to establish defensible boundaries. Green wedge policies should be reviewed as part of the UDP review process. The general policies controlling development in the countryside apply in green wedges, but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation (see 2.6.14 to 2.6.18).

PLANNING FOR SUSTAINABILITY

2.6.13 As with Green Belts, when considering green wedges local planning authorities will need to ensure that a sufficient range of development land is available which is suitably located in relation to the existing urban edge and the proposed green wedge.

References

Inappropriate development

2.6.14 When considering applications for planning permission in Green Belts or green wedges a presumption against inappropriate development will apply. Local planning authorities should attach substantial weight to any harm which a development would have on a Green Belt or green wedge.

2.6.15 Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would have on the Green Belt or green wedge. Green Belt and green wedge policies in UDPs should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan.

2.6.16 The construction of new buildings in a Green Belt or in a locally designated green wedge is inappropriate development unless it is for the following purposes:

- justified agricultural and forestry needs (see 9.3.6 to 9.3.10);
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt or green wedge and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings;
- limited infilling (in these settlements and other development sites which have been identified for limited infilling in the UDP) and affordable housing for local needs under UDP policies; or
- small scale diversification within farm complexes where this is run as part of the farm business.

2.6.17 The re-use of buildings in a Green Belt or green wedge is not inappropriate development provided that:

References

- the original building is substantial, permanent and capable of conversion without major reconstruction;
- the new use will not have a greater impact on the openness of the Green Belt or green wedge and the purposes of including land within it. Strict control will need to be exercised over the extension, alteration or any associated use of land for re-used buildings; and
- the building is in keeping with its surroundings.

2.6.18 Other forms of development would be inappropriate development unless they maintain the openness of the Green Belt or green wedge and do not conflict with the purposes of including land within it.

2.7 Preference for the re-use of land

2.7.1 Previously developed (or brownfield) land (see Figure 2.1) should, wherever possible, be used in preference to greenfield sites, particularly those of high agricultural or ecological value. The Assembly Government recognises that not all previously developed land is suitable for development. This may be, for example, because of its location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated. For sites like these it may be appropriate to secure remediation for nature conservation, amenity value or to reduce risks to human health.

2.7.2 Many previously developed sites in built-up areas may be considered suitable for development because their re-use will promote sustainability objectives. This includes sites:

- in and around existing settlements where there is vacant or under-used land, commercial property or housing;
- in suburban areas close to public transport nodes which might support more intensive use for housing or mixed use;
- which secure land for urban extensions; and
- which facilitate the regeneration of existing communities.

Figure 2.1 Definition of Previously Developed Land

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage (see note 1 below) of the development is included, as are defence buildings, and land used for mineral extraction and waste disposal (see note 2 below) where provision for restoration has not been made through development control procedures.

Excluded from the definition are:

- land and buildings currently in use for agricultural or forestry purposes;
- land in built-up areas which has not been developed previously, for example parks, recreation grounds and allotments, even though these areas may contain certain urban features such as paths, pavilions and other buildings;
- land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings;
- previously developed land the nature conservation value of which could outweigh the re-use of the site; and
- previously developed land subsequently put to an amenity use.

Notes:

1. The curtilage is defined as the area of land attached to a building. All of the land within the curtilage of the site will also be defined as previously-developed. However this does not mean that the whole area of the curtilage should therefore be redeveloped. For example, where the footprint of a building only occupies a proportion of a site of which the remainder is open land (such as a hospital) the whole site should not normally be developed to the boundary of the curtilage. The local planning authority should make a judgement about site layout in this context, bearing in mind other planning considerations such as policies for the protection of open space, playing fields or development in the countryside. They should consider such factors as how the site relates to the surrounding area and requirements for on-site open space, buffer strips and landscaped areas.
2. This relates to minerals and waste sites which would otherwise remain unrestored after use because the planning permission allowing them did not include a restoration condition. All other such sites will be restored to greenfield status, by virtue of the planning condition.

2.7.3 If the Assembly Government's objectives for the more sustainable use of land and buildings and the re-use of previously developed sites are to be achieved, local authorities and other stakeholders will need to be more proactive. Wherever possible, local authorities should work with landowners to ensure that suitable sites are brought forward for development and to secure a coherent approach to renewal. In some instances the local authority may need to purchase land in order to facilitate redevelopment. Wherever possible this should be done by negotiated agreement, but it may involve the use of compulsory purchase powers.

References

2.8 Conserving the best and most versatile agricultural land

2.8.1 In the case of **agricultural land**, land of grades 1, 2 and 3a of the Ministry of Agriculture Fisheries and Food (MAFF) Agricultural Land Classification (ALC) is the best and most versatile, and should be conserved as a finite resource for the future^{12,13}. In UDP policies and development control decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade.

12 Agricultural Land Classification of England and Wales, MAFF, 1988

13 Technical Advice Note (Wales) 6, 'Agricultural and Rural Development', 2000

2.9 Promoting sustainability through good design^{14,15}

2.9.1 Good design can protect the environment and enhance its quality, help to attract business and investment, promote social inclusion and improve the quality of life. Good design should be the aim of all those involved in the development process and should be encouraged everywhere. This applies to all development proposals, at all scales, from the construction or alteration of individual buildings to larger development proposals.

14 'By Design: Urban Design in the Planning System - Towards Better Practice', DETR, 2000

15 Technical Advice Note (Wales) 12, 'Design', 2002

2.9.2 The design process should promote the efficient use of resources, including land. It should seek to maximise energy efficiency and minimise the use of non renewable resources and the generation of waste and pollution. Ways to achieve this include, for example, site selection and treatment.

PLANNING FOR SUSTAINABILITY

2.9.3 Mixed use development (of both built and open space), emphasising flexibility and adaptability, can provide particular design opportunities, adding interest and vitality to living and working environments. At the same time, good design is important for the success of relatively compact mixed use developments, for example in helping to keep noise levels low.

2.9.4 Good design is essential to ensure that areas, particularly those where higher density development takes place, offer high environmental quality, including open and green spaces. Landscape considerations are an integral part of the design process and can make a positive contribution to environmental protection and improvement, for example to biodiversity, air quality and the protection of water resources.

2.9.5 Local planning authorities and developers should consider the issue of **accessibility for all**¹⁶, including the needs of those with visual and hearing impairments and those with limited mobility such as wheelchair users, elderly people and people with young children, at an early stage in the design process.

2.9.6 Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take¹⁷. Each unitary authority is required to establish partnership arrangements to prepare a community safety strategy document¹⁸. Crime prevention and fear of crime are social considerations to which regard must be given in the preparation of the UDP, should be reflected in any supplementary planning guidance, and may be material considerations in the determination of planning applications^{19, 20}. The aim should be to **produce safe environments through good design**.

2.9.7 In areas recognised for their landscape, townscape or historic value, such as National Parks, Areas of Outstanding Natural Beauty and conservation areas, and more widely in areas with an established and distinctive design character, it can be appropriate to seek to promote or reinforce traditional and local distinctiveness. In those areas the impact of development on the existing character, the scale and siting of new development, and the use of appropriate building materials (including where possible sustainably produced materials from local sources), will be particularly important. The impact of development on listed buildings should be given particular attention.

References

16 British Standards Institute BS8300, 'Access for Disabled people'

17 Crime and Disorder Act 1998, Section 17

18 Crime and Disorder Act 1998, Sections 5 and 6

19 Welsh Office Circular 16/94, 'Planning Out Crime'

20 'The Secured by Design Award Scheme', Association of Chief Police Officers, 1999

2.9.8 Design is an inclusive process which can raise public aspirations, reinforce civic pride and a sense of place or 'bro', and help to secure continued public acceptance of new development. Local planning authorities should encourage early consultation with potential developers and other interested parties on design matters.

2.9.9 The visual appearance of proposed development, its scale and its relationship to its surroundings are material planning considerations and local planning authorities should reject poor designs. External layout, access and setting all need to be considered.

2.9.10 UDPs should provide clear policies, supported where appropriate by supplementary planning guidance, setting out planning authorities' design expectations. Planning and development briefs should be used where appropriate. Supplementary planning guidance and briefs can usefully be prepared in partnership with stakeholders and should be subject to appropriate consultation. The preparation of audits and appraisals can also assist local planning authorities in the exercise of their planning and development control functions. Design frameworks can also help to revitalise towns and guide development in villages.

2.9.11 Applicants for planning permission should, as a minimum, provide a short written statement setting out the design principles adopted, as well as illustrative material in plan and elevation.

2.9.12 Local planning authorities should encourage high quality design of buildings and spaces in their policies and guidance. They should not attempt to impose a particular architectural taste or style arbitrarily and should avoid inhibiting opportunities for innovative design solutions.

2.10 Supporting the Welsh language

2.10.1 The Welsh language is part of the social and cultural fabric of Wales. The future well being of the language across the whole of Wales will depend on a wide range of factors, particularly education, demographic change, community activities and a sound economic base to maintain thriving sustainable communities. The land use planning system should also take account of the needs and interests of the Welsh language and in so doing can contribute to its well being.

PLANNING FOR SUSTAINABILITY

2.10.2 All local planning authorities should consider whether they have communities where the use of the Welsh language is part of the social fabric, and where this is so it is appropriate that this be taken into account in the formulation of land use policies. All local planning authorities should include in the reasoned justifications to their UDPs a statement on how they have taken the needs and interests of the Welsh language into account in plan preparation, and how any policies relating to the Welsh language interact with other plan policies.

2.10.3 It should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. Appropriate UDP policies about the broad scale, location and phasing of new development could assist in achieving this aim. Policies relating to affordable housing could also be of benefit. However, policies should not seek to introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

2.11 Involving the community and preparing community strategies

2.11.1 Sustainable development is our shared responsibility. As the elected bodies for their areas, local authorities have the opportunity to integrate services at a local level and set a framework for the development of sustainable communities. In addition to preparing UDPs, local authorities are tasked to prepare a wide range of other strategies and plans, including, for example, Local Agenda 21 strategies, Local Transport Plans (LTPs), and Local Biodiversity Action Plans (LBAPs), describing how they will pursue sustainability locally.²¹

2.11.2 In particular, Section 4(1) of the Local Government Act now requires every county and county borough council in Wales to prepare a **community strategy**²² to promote the economic, social and environmental well being of its area, and to contribute to the achievement of sustainable development. The strategies, on which work had to begin by April 2001, are intended to set out the needs of the area for the next 10 to 15 years.

Reference

21 In National Parks production of the UDP and LBAP are the responsibility of the National Park Authority.

22 'Preparing Community Strategies: Guidance for Local Authorities', 2001

2.11.3 Community strategies and UDPs need to be complementary. When preparing a community strategy a local authority must take account of the policies and proposals in an adopted UDP. Once established, the land use implications of a community strategy will be taken forward by a UDP. Where a UDP is in preparation, work on that plan may proceed alongside preparation of the community strategy so that they complement each other.

2.11.4 In all these tasks the National Park authority, the local community, community councils and other appropriate stakeholders need to be involved in establishing objectives, priorities and responsibilities for action, and in timetabling and implementation. In the case of land use plan preparation and the control of development there are both statutory and recommended requirements for consultation and these are indicated where appropriate in the following chapters. Linking the aspirations and actions of the Assembly Government, local authorities, businesses, the public and voluntary sectors and the community will be essential for the delivery of sustainable development in Wales.

References

CHAPTER 3 DEVELOPMENT PLANS

3.1 A plan-led system^{1,2}

3.1.1 In Wales, every local planning authority must prepare a unitary development plan (UDP) for its area. The plan will be the UDP for each county council or county borough council and each National Park authority. On adoption it will supersede any other development plan for all or part of its area including any structure or local plan.

3.1.2 UDPs are intended to provide a firm basis for rational and consistent decisions on planning applications and appeals. Section 54A of the 1990 Act³ requires that where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan, unless material considerations indicate otherwise. Conversely, applications which are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify the grant of planning permission.

3.1.3 Policies likely to provide the basis for determining planning decisions, or for determining conditions to be attached to planning permissions, should be set out in the UDP; policies on non-land use matters should not be included. Plan policies may set out criteria which should be taken into account in the assessment of development proposals.

3.1.4 Local planning authorities must ensure that they have sufficient information on which to base sound UDP policies and development control decisions.

3.1.5 It is important that UDP policies are kept up to date by means of regular monitoring and review.

3.1.6 UDPs should give developers and the public certainty about the type of development that will be permitted at a given location. If policies or proposals contained in a draft UDP appear to conflict with the Assembly Government's planning policy guidance and appear not to be justified by local circumstances, the Assembly will draw this to the attention of the local planning authority and, if necessary, intervene in the plan process by means of objection or direction to modify or by calling in all or part of a plan. The Assembly would expect to use its powers of direction sparingly.

References

1 'Unitary Development Plans Wales', National Assembly for Wales, 2001

2 'Unitary Development Plans – A Guide to Procedures', National Assembly for Wales, 2001

3 Town and Country Planning Act 1990 – Section 54A

3.2 Collaborative working and consultation

3.2.1 Issues of a strategic nature which affect more than one local planning authority will require on-going consultation and collaboration between all authorities likely to be affected. In Wales this type of cross-boundary co-operation generally takes place within the framework of the voluntary groupings of local authorities⁴. The report presenting conclusions of collaborative working, especially where that work has been subject to wide consultation, will be an important input to UDP preparation and local planning authorities may wish to approve the report as a statement of the strategy informing their UDPs. The conclusions may also be a material consideration for development control purposes.

3.2.2 Local planning authorities should provide for the participation of the public, community councils, voluntary bodies, the business community and all other relevant stakeholders in the preparation of UDPs, in dealing with both cross-boundary and local issues (and see 2.11.4).

3.3 Sustainability principles in plan preparation

3.3.1 A systematic **sustainability appraisal**⁵ is the most effective way of ensuring that the implications of an emerging UDP are considered as an integral part of its preparation. Such an appraisal ensures that the UDP is prepared in the context of robust and realistic sustainability objectives. There is no single way of doing sustainability appraisal that is right in all circumstances, but good practice guidance on sustainability appraisal of UDPs will be available⁶.

3.3.2 An appraisal needs to expose the full range of economic, social and environmental considerations:

- With regard to **economic considerations**, UDPs will only be effective if they are realistic and practical and provide developers and others with scope to make choices to secure the efficient and effective use of resources. UDPs (and development control decisions later based upon them) should take account of European, national and local economic and development policies. UDPs should include an indication, in broad terms, of the assumptions made about the resources likely to be available for effecting the policies and proposals formulated.

References

4 'Unitary Development Plans Wales', National Assembly for Wales, 2001, paragraphs 1.3 to 1.11

5 'Unitary Development Plans Wales', National Assembly for Wales, 2001, paragraphs 2.17 to 2.22

6 Good practice guidance on sustainability appraisal of UDPs is in preparation and due to be published by the Welsh Assembly Government in 2002.

DEVELOPMENT PLANS

- UDPs (and later development control decisions) should take account of **social considerations** relevant to land use issues, such as the relationship of planning policies and proposals to social needs and problems, including the likely impact of policies and proposals on the whole community, on women and men, on children and families, or on groups such as elderly and disabled people, single parent families, ethnic minorities, disadvantaged and deprived people. Social considerations will be particularly relevant in assessing the need for affordable housing and for special needs housing, in preparing measures for crime prevention, and for sport and recreation provision. The several impacts of plans upon health and its determinants should be considered. UDPs should make provision for land for schools, further and higher education, places of worship, recreation and other community facilities.
- Most UDP policies and proposals will have **environmental implications** which may be local, regional, national or international. The UDP sustainability appraisal does not remove the requirement for a formal Environmental Impact Assessment for individual development proposals where they are required by legislation⁷. However, forthcoming requirements for **Strategic Environmental Assessment** will need to be taken into account.

3.3.3 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (the Strategic Environmental Assessment or SEA Directive) came into force on 21st July 2001. It must be brought into effect by 21st July 2004. It will require an environmental assessment of certain plans and programmes which are likely to have significant environmental effects.

3.3.4 UDPs appear to be covered by this Directive, so environmental assessments will be required. Modifications to plans are covered too, except where minor (and even a minor modification could be covered if it were deemed likely to have significant environmental effects).

References

7 Town and Country Planning (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 1999 (SI 1999/293) as amended

3.3.5 The SEA Directive contains a retroactive provision. Plans and programmes for which the first formal preparatory act is before 21st July 2004 and which are formally adopted more than 24 months thereafter, shall be made subject to environmental assessment as laid down in the Directive unless Member States decide on a case by case basis that this is not feasible and inform the public of their decision.

3.3.6 Like the Environmental Impact Assessment Directive, the SEA Directive is largely procedural in nature, many of the individual requirements being similar. It should be possible to carry out sustainability appraisal of UDPs in such a way as to meet the requirements of the SEA Directive, thus avoiding duplication of effort. The good practice guidance on sustainability appraisal of UDPs will consider this requirement.

3.3.7 Further guidance on the requirements of the SEA Directive will be issued in due course.

3.4 Phasing of development

3.4.1 In the light of local circumstances it is for individual authorities to consider the need for phasing of development over the period of the UDP. Phasing may be justified by considerations relating to physical or social infrastructure or the adequacy of other services, which may indicate that a particular site cannot be released for development until a particular stage in the plan period. Evidence that market demand would exhaust total planned provision in the early years of the UDP may also indicate a need for some overall phasing of development, though this generally will be justifiable only in areas which are under severe development pressure. Where phasing is included in a UDP it should normally take the form of a broad indication of the time-scale envisaged for the release of the main areas or identified sites, rather than an arbitrary numerical limit on permissions or a precise order of release of sites in particular periods.

3.4.2 Proposals for phasing should allow for a reasonable degree of choice and flexibility, for example to secure an efficient and effective housing market. Flexibility will be needed in respect of the emergence of unidentified sites i.e. sites not allocated in the UDP for the particular type of development and generally referred to as windfall sites. Phasing policies should recognise the need for possible adjustment to the timing of land release to the extent that the

DEVELOPMENT PLANS

emergence of unidentified sites exceeds or falls short of the assumptions in the UDP. Where assumptions are made in the UDP about the future availability of windfall sites they will need to be checked by regular monitoring of planning permissions granted.

References

3.5 What happens when a development plan has not yet been adopted

3.5.1 Planning applications must be considered in the light of policies in the adopted UDP. The weight to be attached to policies in emerging UDPs which are going through the statutory procedures towards adoption depends upon the stage of plan preparation (the weight will increase as successive stages are reached) and upon the degree of any conflict with adopted plans. If no objections to relevant policies in a deposited plan have been lodged, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted and replace those in the existing plan. Equally, the converse applies if there have been objections to relevant policies. The nature of objections to, and representations in support of, a policy will also be an important consideration.

3.5.2 Questions of **prematurity** may arise where a UDP is in preparation or under review, and proposals have been issued for consultation (i.e. placed on deposit) but the plan has not yet been adopted. In these circumstances, it may be justifiable to refuse planning permission on grounds of prematurity in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would predetermine decisions about the scale, location or phasing of new development which ought properly to be taken in the UDP context. Refusal would therefore not usually be justified except in cases where a development proposal went to the heart of a plan. This requires careful judgement. A refusal might be justifiable where a proposal would have a significant impact on an important settlement, or on a substantial area, with an identifiable character, but would rarely be justifiable if a development proposal impacted on only a small area.

3.5.3 The stage which a plan has reached will also be an important factor in judging whether a refusal on prematurity grounds is justifiable. A refusal on prematurity grounds will seldom be justified where a plan is at the pre-deposit consultation stage, with no early prospect of reaching deposit, because of the lengthy delay which this would impose in determining the future use of the land in question.

3.5.4 Where there is a phasing policy in the plan there may be circumstances in which it is necessary to refuse planning permission on grounds of prematurity if the policy is to have effect.

References

3.5.5 Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the UDP process.

CHAPTER 4 MAKING AND ENFORCING PLANNING DECISIONS

References

4.1 Taking planning decisions

4.1.1 The planning system is intended to help protect the amenity and environment of towns, cities and the countryside in the public interest while promoting high quality, sustainable development. Some changes of land use or minor works are permitted by law and do not need planning permission from the local planning authority, while others of a more substantial nature require planning permission from the local planning authority before development or change of use can begin¹.

4.1.2 Applications for planning permission, or for the renewal of planning permission, should be determined in accordance with the approved or adopted UDP, unless **material considerations** indicate otherwise². Material considerations could include current circumstances, policies in an emerging UDP, and planning policies of the Assembly Government and the UK Government. All applications should be considered in relation to up to date policies.

4.1.3 Factors to be taken into account in making planning decisions (**material considerations**) must be genuine planning matters, that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability.

4.1.4 Material considerations must also be fairly and reasonably related to the development concerned. The Courts are the final arbiters of **what may be regarded as material considerations** in relation to any particular application, but they include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment. The effects of a development on, for example, health, public safety and crime can also be material considerations, as, in principle, can public concerns in relation to such effects.

4.1.5 The local planning authority should have good reasons if it approves a development which is a departure from the UDP, contrary to the Assembly Government's stated planning policies, or against the advice of a statutory consultee or the written advice of its officers, and these reasons should be recorded in the Committee's minutes. Where an application is refused the local planning authority must state clearly the reasons for the refusal.

1 Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418), Schedule 2 and the Town and Country Planning (Use Classes) Order 1987 (SI 1987/764)

2 Town and Country Planning Act 1990, Section 54A

4.1.6 Unless otherwise specified, a **planning permission runs with the land** and it is seldom desirable to provide for any other arrangement. Exceptionally, even though such considerations will rarely outweigh the more general planning considerations, the **personal circumstances** of occupiers, personal hardship or the difficulties of businesses which are of value to the local community, may be material to the consideration of a planning permission. In such circumstances, a permission may be granted subject to a condition that it is personal to the applicant³. Authorities should bear in mind that personal permissions will hardly ever be justified for works or uses that will remain long after the personal circumstances of the applicant have changed.

4.1.7 The planning system does not exist to protect the **private interests** of one person against the activities of another. Proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. The courts have ruled that the individual interest is an aspect of the public interest, and it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties. However, such consideration should be based on general principles, reflecting the wider public interest (for example a standard of 'good neighbourliness'), rather than the concerns of the individual.

4.1.8 When determining planning applications local planning authorities must take into account any relevant view on planning matters expressed by neighbouring occupiers, local residents and any other third parties. While the **substance of local views must be considered**, the duty is to decide each case on its planning merits. As a general principle, local opposition or support for a proposal is not, on its own, a reasonable ground for refusing or granting a planning permission; objections, or support, must be based on valid planning considerations. There may be cases where the development proposed may give rise to public concern. The courts have held that perceived fears of the public are a material planning consideration that should be taken into account in determining whether a proposed development would affect the amenity of an area and could amount to a good reason for a refusal of planning permission. It is for the local planning authority to decide whether, upon the facts of the particular case, the perceived fears are of such limited weight that a refusal of planning permission on those grounds would be unreasonable.

References

3 Welsh Office
Circular 35/95 'The
Use of Conditions in
Planning Permissions'

MAKING AND ENFORCING PLANNING DECISIONS

4.1.9 The Assembly's Model Code of Conduct for elected and co-opted members of county / county borough councils, community councils and National Park authorities sets out **recommended standards of conduct** they should follow in the performance of their duties. All relevant authorities are required to adopt the Code and all members must give written undertakings to be bound by it. A breach of the Code may constitute either maladministration, misconduct or both. Elected members must declare any pecuniary or personal interest in any application before them and in most cases should not speak or vote on any proposal where they have such an interest⁴. Officers are expected to observe their authority's employees' code of conduct and the relevant professional codes in performing their duties.

4.2 Exceptions to the process: permitted development rights

4.2.1 The Town and Country Planning (General Permitted Development) Order 1995 (GPDO) gives a **general permission for certain defined classes of development or use of land, mainly of a minor character**. The most commonly used class permits a wide range of small extensions or alterations to dwelling houses. Development requiring Environmental Impact Assessment does not benefit from permitted development rights. Schemes for Simplified Planning Zones also confer planning permission for developments of types defined in the scheme. Under the 28 and 56 day determination procedure local planning authorities may require their prior approval to be obtained before certain permitted development rights can be exercised. In National Parks and other areas specified in Article 1(6) of the GPDO, and within the areas of land specified in Article 1(5) of the GPDO - Areas of Outstanding Natural Beauty (AONBs), Sites of Special Scientific Interest (SSSIs) and conservation areas - the GPDO provides for the reduction of some permitted development rights while others are withdrawn. Also, the Habitats Regulations ensure that any permission granted under the GPDO is not in breach of the Habitats Directive^{5, 6, 7}.

4.2.2 In operating the determination procedures under the GPDO, local authorities should always have full regard to the operational needs of the agricultural and forestry, and telecommunications industries; the need to avoid imposing any unnecessary or excessively costly requirements, and the normal considerations of reasonableness. They will also need to consider the effect of the development on public amenity, the conservation of landscape,

References

4 Part 111 of the Local Government Act 2000 - Model Code of Conduct for Members and Revised General Principles of Conduct

5 Conservation (Natural Habitats, &c) Regulations 1994 (SI No. 1994/2716)

6 EC Directive 92/43/EEC on Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive)

7 Technical Advice Note (Wales) 5 'Nature Conservation and Planning', 1996

habitat, wildlife, historic sites and listed buildings and their settings. Irrespective of whether they have to follow the determination procedures, developers intending to exercise their permitted development rights should also take these considerations into account.

4.2.3 In exceptional circumstances, the general permission which the GPDO grants for a particular development or class of development may be withdrawn in a particular area by a Direction made by the local authority or by the Assembly under Article 4 of that Order. Such action will rarely be justified unless there is a real and specific threat, i.e. there is reliable evidence to suggest that permitted development is likely to take place which could damage an interest of acknowledged importance and which should, therefore, be brought within full planning control in the public interest. Similarly, save in exceptional circumstances, planning conditions should not be imposed which restrict or withdraw permitted development rights.

4.3 Environmental Impact Assessment ^{8, 9, 10, 11}

4.3.1 Environmental Impact Assessment (EIA) is the process by which information about the likely environmental effects of certain types of development is collected, assessed and taken into account, both by the developer, as part of project design, and by the local planning authority in deciding whether planning permission should be granted. It is a quite separate process from the appropriate assessment required under the Habitats Regulations (see 5.5.9).

4.3.2 Development that falls within a relevant description in Schedule 1 to the Regulations is known as Schedule 1 development and must always be subject to EIA¹². Development of a type listed in Schedule 2 to the Regulations which meets one of the relevant criteria or exceeds one of the relevant thresholds listed in the second column of the table in Schedule 2 or is located in a sensitive area, as defined in the Regulations, is known as Schedule 2 development. Developers may decide for themselves that EIA will be required for their proposed Schedule 2 development (including that which would otherwise benefit from permitted development rights)¹³.

4.3.3 Otherwise, local planning authorities must determine and formally record whether or not EIA is required (known in the Regulations as a 'screening opinion'). In making this determination, local planning authorities must take into account the relevant 'selection criteria' in Schedule 3 to the Regulations. Developers who

References

8 EC Directive 85/337/EEC (as amended by EC Directive 97/11/EC)

9 Welsh Office Circular 11/99, 'Environmental Impact Assessment'

10 'Environmental Impact Assessment: A Guide to Procedures', DETR, Thomas Telford Publishing, 2000

11 'Evaluation of Environmental Information for Planning Projects' HMSO 1994

12 Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999/293) as amended

13 'Environmental Impact Assessment - Guidance on Screening', European Commission, 1996

MAKING AND ENFORCING PLANNING DECISIONS

are dissatisfied with a 'screening opinion' that EIA is required, or where the authority fails to adopt an opinion within three weeks, may appeal to the Assembly for a 'screening direction'.

4.3.4 Where EIA is required, the developer must prepare and submit an Environmental Statement (ES) to accompany the planning application, setting out the information specified in Schedule 4 to the Regulations¹⁴. While the responsibility for compiling the ES rests with the developer, there should be consultation with those with relevant information. Public authorities that have such information in their possession are required to make it available to the developer.

4.3.5 Developers should be encouraged to obtain a formal opinion from the local planning authority on what should be included in the ES (known as a 'scoping opinion')¹⁵. Developers may appeal to the Assembly for a 'scoping direction' where an authority fails to make a 'scoping opinion' within five weeks.

4.3.6 The ES (and the application to which it relates) must be publicised. Public authorities with relevant environmental responsibilities, and the public, must be given an opportunity to give their views on the project and the ES.

4.3.7 The period within which the local planning authority should determine an application to which EIA applies is 16 weeks from the date of receipt of the ES. The local planning authority must inform the public of its decision whether to grant or refuse permission and the main reasons and considerations on which the decision is based.

4.3.8 Local planning authorities should advise developers, where relevant, to consider the potential benefits of managing the EIA process in parallel with the Authorisations process managed by the Environment Agency.

4.4 Ensuring access for all^{16, 17, 18, 19, 20, 21}

4.4.1 Disability Access Groups need to be consulted throughout the land use planning process.

4.4.2 Developments must conform to the provisions of the Disability Discrimination Act²² and local planning authorities have a duty when granting planning permission to draw applicants' attention to their statutory obligations. It is open to planning authorities to require broader access than required by the Act if this can be justified.

References

14 'Preparation of Environmental Statements for Planning Projects that require Environmental Assessment' HMSO 1995

15 'Environmental Impact Assessment - Guidance on Scoping', European Commission, 1996

16 Planning (Listed Buildings and Conservation Areas) Act 1990

17 Chronically Sick and Disabled Persons Act 1970

18 Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'

19 Building Regulations 1991, Approved document M, Access and Facilities for Disabled People, 1999 Edition

20 British Standards Institute BS8300, 'Access for Disabled People'

21 'Building and Buildings England and Wales: The Building Regulations 2000' (SI 2000/2531)

22 Disability Discrimination Act 1995 and Code of Practice relating to the Disability Discrimination Act 1995 Part III, Rights of Access to Goods, Facilities and Services

4.4.3 When a new building is proposed, an existing building is being extended or altered, or a change of use is proposed, developers should consider the need to make it accessible for all those who might use the building. The appropriate design and layout of spaces in, between and around buildings, including parking provision and movement routes, is particularly important in ensuring good accessibility. The preparation of access audits may be useful in any assessment of accessibility.

4.4.4 Where it is not clear from a planning application that provision for everyone is being achieved, it will be preferable to resolve the issue through negotiation. If there is a clear planning need it may be appropriate to impose a condition²³ to ensure adequate accessibility for all.

4.4.5 Historic buildings can present particular accessibility difficulties²⁴. The provision of access suitable for all should be encouraged wherever the installation of such access would not unduly affect the special character of an historic building. When a new extension is designed for a building of special architectural or historic interest it should be fully accessible. Access audits also have a beneficial role in assessing the accessibility of historic buildings.

4.5 Control of outdoor advertisements^{25, 26}

4.5.1 The statutory provisions enable local planning authorities to control the display of advertisements when it is justified, in the interests of public safety and amenity. The control regime does not enable the authority to regulate the subject-matter of any advertisement. The test in assessing an advertisement's impact on public safety is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting or so confusing that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others' safety.

4.5.2 The test in considering an advertisement's impact on amenity is whether it will adversely affect the appearance of the building, or of the immediate neighbourhood, where it is to be displayed. Local planning authorities should therefore consider the local characteristics of the neighbourhood, including its scenic, historic, architectural or cultural features. Because assessment of these factors may appear to involve some subjective judgement, authorities should be consistent in their assessment of visual impact in similar or comparable neighbourhoods or surroundings.

References

23 Welsh Office Circular 35/95, 'The Use of Conditions in Planning Permissions'

24 'Providing Physical Access to Historic Buildings', Consultation draft, Cadw, 2000

25 Town and Country Planning Act 1990 (as amended), Sections 220-225

26 Town and Country Planning (Control of Advertisements) Regulations 1992 (SI 1992/666) as amended

MAKING AND ENFORCING PLANNING DECISIONS

4.5.3 No advertisement sign should be displayed without the consent of the landowner, and it is an offence to erect or paint signs on any part of a public highway²⁷. Unless applicants are able to demonstrate prior highway authority authorisation for the proposed sign(s), then applications to display advertisements on (or overhanging) highway land should be refused automatically.

4.5.4 Revised guidance on the criteria for brown and white tourist signing was issued in 1996²⁸. Applicants requiring highway signs, for sites that meet these criteria, should apply to the appropriate highway authority.

4.6 Imposing planning conditions

4.6.1 Conditions on a planning permission can enable many development proposals to proceed where it would otherwise be necessary to refuse planning permission. The proper use of conditions can improve the quality of development control and enhance public confidence in the planning system²⁹.

4.6.2 Conditions should only be imposed where they are:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

4.6.3 Where appropriate, UDPs should specify the policies for certain types of development which, if approved by the authority, would be subject to planning conditions.

4.6.4 Planning permission cannot be granted subject to conditions which specifically require works on land outside the application site and outside the control of the applicant. However it is possible for local planning authorities to grant permission subject to a condition that development should not be commenced or occupied until some obstacle to the development has been overcome.

References

27 Highways Act 1980, Section 132

28 Welsh Office Circular 3/96, 'Traffic Signs to Tourist Attractions and Facilities in Wales'

29 Welsh Office Circular 35/95, 'The Use of Conditions in Planning Permissions'

4.7 Negotiating planning obligations³⁰

4.7.1 Planning obligations are useful arrangements to overcome obstacles which may otherwise prevent planning permission from being granted. Contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits which will make development more sustainable. It is essential that arrangements are fair to both the developer and the community, that the process is as transparent as possible, and that UDPs provide guidance on the types of obligations which authorities may seek from developers. When granting planning permission local planning authorities may seek to enter into a planning obligation with a developer to:

- restrict development or use of the land;
- require operations or activities to be carried out in, on, under or over the land;
- require the land to be used in a specified way; or
- require payments to be made to the authority either in a single sum or periodically.

4.7.2 Amongst other factors, planning obligations should be sought only where they are:

- necessary;
- relevant to planning;
- directly related to the proposed development;
- fairly and reasonably related in scale and kind to the proposed development; and
- reasonable in all other respects.

Where planning obligations are sought, the parties should work for an early agreement to avoid unnecessary delay in the planning process.

4.7.3 A planning obligation may be entered into via a unilateral undertaking by a developer or by agreement between a developer and a planning authority. Planning obligations run with the land, so they may be enforced against both the original covenantor and anyone subsequently acquiring an interest in the land.

References

30 Welsh Office
Circular 13/97,
'Planning Obligations'

MAKING AND ENFORCING PLANNING DECISIONS

4.7.4 A planning obligation may be modified or discharged by agreement between the local planning authority and the person(s) against whom the obligation is enforceable or by application to the authority (after five years from the date of entering into the obligation). An applicant has a right of appeal to the Assembly against the local planning authority's determination, or its failure to give notice of that determination.

4.7.5 Planning obligations should only be sought where they are necessary to make a proposal acceptable in land use planning terms. Planning permission may not be bought or sold and negotiations should be conducted in a way that is seen to be fair, open and reasonable. Unacceptable development should never be allowed because of unrelated benefits. Acceptable development should never be refused simply because an applicant is unwilling to offer such benefits. If there is a choice between imposing conditions and entering into a planning obligation, the imposition of a condition is preferable. Conditions are more transparent, offer greater flexibility in the light of changing circumstances and offer a developer the right of appeal to the Assembly against those conditions considered to be onerous.

4.8 Enforcing planning control

4.8.1 An effective development control process requires local planning authorities to be prepared to take **enforcement action** in appropriate circumstances. The decisive issue for the authority is whether the breach of control would unacceptably affect public amenity, including the existing use of land and buildings meriting protection in the public interest.

4.8.2 Enforcement action taken by an authority to prevent or remedy breaches of planning control needs to be effective and timely. This means that local planning authorities should look at all means available to them to achieve the desired result. In all cases there should be dialogue with the owner or occupier of land and in some cases mediation may also be an agreed way forward. In many cases this dialogue could result in an accommodation which means that enforcement action is unnecessary. Such early dialogue or mediation would avoid enforcement action coming as a surprise to the owner or occupier.

4.8.3 The statutory time limits for taking enforcement action must be adhered to and prompt initiation of action may be necessary to prevent an unacceptable breach of planning control from becoming

References

well established and more difficult to remedy. Any enforcement action ultimately deemed necessary should be commensurate with the breach of planning control to which it relates. The intention should be to remedy the effects of the breach of planning control, not to punish the person(s) responsible for the breach.

References

4.9 Using Completion Notices

4.9.1 Where a material start has been made but development is not proceeding, local planning authorities have the power to serve a **Completion Notice**. Completion Notices have two main purposes, namely to encourage the completion of a development for which permission has been partially implemented, and to provide a means, should the development not after all be carried through, of disposing of the uncertainty created by an incompletely exercised permission. Local planning authorities should exercise this power where they consider it necessary to resolve uncertainty.

4.10 Revoking, modifying or discontinuing a planning permission

4.10.1 If it considers that it is expedient to do so, a local planning authority has the power to make an order revoking or modifying a planning permission³¹; or requiring that any use of land be discontinued or continued subject to conditions; or that any buildings or works shall be altered or removed. **Revocation and Modification Orders** are required to be confirmed by the Assembly unless they are unopposed, but Discontinuance Orders must always be confirmed by the Assembly. Compensation is payable by the local planning authority as the result of an order taking effect.

31 Town and Country Planning Act 1990, Sections 97,98,99, 102 and 103, and Sections 100 and 104

4.10.2 The Assembly has default powers to make its own Revocation / Modification or Discontinuance Orders, but only after consultation with the local planning authority. Such intervention would overturn a local authority's judgement of a matter which is, in the first place, its responsibility and could only be justified in exceptional circumstances. The general principle and policy followed by successive UK Governments, and continued by the Assembly, is that such action would be considered only where the original decision is judged to be grossly wrong, so that damage would be done to the wider public interest. This policy also applies to the use of the Assembly's similar such default powers in respect of listed buildings and conservation area consent.

4.11 Planning Appeals

References

4.11.1 When a planning authority refuses planning permission, imposes conditions which an applicant finds unacceptable, or does not determine a planning application within the appropriate period, an applicant has the right to appeal to the Assembly. There is no right of appeal by third parties where planning permission has been granted.

4.11.2 Most planning appeals are determined by Planning Inspectors under powers statutorily transferred to them. The Assembly has powers to recover planning appeals from the Inspectorate and determine them itself. Those powers are used in cases involving:

- residential development of more than 150 houses or on more than 6 hectares of land;
- retail developments of over 10,000 square metres;
- major proposals for the winning and working of minerals;
- proposals for major developments which could have wide effects beyond their immediate locality;
- proposals giving rise to substantial controversy beyond the immediate locality;
- proposals which raise novel planning issues;
- proposals which raise significant legal difficulties;
- proposals to which a Central Government Department has objected; or
- cases that can only be decided in conjunction with a case over which an Inspector has no jurisdiction.

4.12 The Assembly's general role in decision taking

4.12.1 Development proposals are generally best determined locally by planning authorities that know their area, its needs and sensitivities. The Assembly does not interfere with local planning authorities' jurisdiction unless it is necessary to do so. The Assembly's powers to call in planning applications are used selectively. Each case is looked at individually. **Call in** is generally only considered where an application raises planning issues of more than local importance which could include, for example, issues that:

- are in conflict with national planning policies;

- could have wide effects beyond their immediate locality;
- may give rise to substantial controversy beyond the immediate locality;
- are likely significantly to affect sites of scientific, nature conservation or historic interest or areas of landscape importance;
- raise issues of national security; or
- raise novel planning issues.

References

4.12.2 Local planning authorities should refer to the Assembly all departure applications submitted by their own local authority, as well as applications for other development which, by reason of its scale or nature or the location of the land, would significantly prejudice the implementation of the UDP³². This allows the Assembly to decide whether it wishes to call in the application for its own determination.

4.12.3 Local planning authorities should also refer to the Assembly retail applications of more than 10,000 square metres, or which by reason of their scale, nature or location would significantly prejudice the implementation of UDP policies and proposals³³. This will allow the Assembly to decide if it wishes to call in the application for its own determination.

32 Welsh Office Circular 39/92, 'The Town and Country Planning General Regulations 1992', The Town and Country Planning (Development Plans and Consultation) Directions 1992

33 Welsh Office Circular 61/93, 'Town and Country Planning (Shopping Development) (England and Wales) No. 2 Direction 1993'

CHAPTER 5 CONSERVING AND IMPROVING NATURAL HERITAGE AND THE COAST

5.1 Objectives

5.1.1 The natural heritage of Wales includes its geology, land forms and biodiversity and its natural beauty and amenity. It embraces the relationships between landform and landscape, habitat and wildlife, and their capacity to sustain economic activity and to provide enjoyment and inspiration¹. The natural heritage is not confined to statutorily designated sites but extends across all of Wales - to urban areas, the countryside and the coast. Attractive and ecologically rich environments are important, both for their own sake and for the health and the social and economic well being of individuals and communities. Biodiversity and landscape are important in the economic life of many communities and the quality of the environment is often a factor in business location decisions.

¹ 'Countryside for All Guide: Standards and guidelines – a good practice guide to disabled peoples' access to the countryside', Fieldfare Trust, 1997.

5.1.2 The Assembly Government's objectives for the conservation and improvement of the natural heritage are to:

- promote the conservation of landscape and biodiversity, in particular the conservation of native wildlife and habitats;
- ensure that action in Wales contributes to meeting international responsibilities and obligations for the natural environment;
- ensure that statutorily designated sites are properly protected and managed; and to
- safeguard protected species.

5.1.3 A key role of the planning system is to ensure that society's land requirements are met in ways which do not impose unnecessary constraints on development whilst ensuring that all reasonable steps are taken to safeguard or enhance the environment. However, conservation and development can often be fully integrated. With careful planning and design, not only can the potential for conflict be minimised, but new opportunities for sustainable development can also be created. For example, new development on previously developed land provides opportunities to restore and enhance the natural heritage through land rehabilitation, landscape management and the creation of new or improved habitats.

5.1.4 It is important that biodiversity and landscape considerations are taken into account at an early stage in both UDP preparation and development control.

5.1.5 Since natural heritage issues are not confined by administrative boundaries they must be addressed strategically through consultation and collaboration with adjoining planning authorities. Moreover, in addressing these issues local planning authorities need to work with other stakeholders, in particular the Countryside Council for Wales (CCW) and the voluntary sector. CCW has a statutory role in both the preparation of UDPs and development control and will provide specific advice on landscape and nature conservation issues. The voluntary sector has developed a wide range of expertise and makes a vital contribution to the conservation of the natural heritage. Bodies such as the Wildlife Trusts Wales and the Royal Society for the Protection of Birds are valuable sources of information and advice.

5.2 Caring for biodiversity ^{2,3,4,5}

5.2.1 The United Kingdom has ratified the Biodiversity Convention⁶, which requires that the components of the Earth's biological diversity should be used in ways which do not lead to their decline. The commitments contained in the Convention are reflected in the Assembly's *Sustainable Development Scheme* and in other policies and programmes.

5.2.2 The Countryside and Rights of Way Act ⁷ places a duty on the Assembly to have regard, so far as is consistent with the proper exercise of its functions, to the purpose of conserving biodiversity in accordance with the Convention. Under the Act the Assembly also has a duty to take (or to encourage others to take) such steps as appear to the Assembly to be reasonably practicable to further the conservation (including restoration or enhancement)⁸ of those species and habitat types identified by the Assembly as priorities for biological conservation. The Assembly Government will ensure that its policies contribute to the conservation of the abundance and diversity of native wildlife and its habitats and will minimise the adverse effects on wildlife where conflict of interest is unavoidable.

5.2.3 The UK Biodiversity Action Plan (UKBAP) includes objectives to conserve, and, where practicable, enhance:

- the quality and range of wildlife habitats and ecosystems;

References

2 'Biodiversity: The UK Action Plan', Cm 2428, HMSO, 1994; (UK Biodiversity Website at <http://www.ukbap.org.uk>).

3 'Biodiversity: The UK Steering Group Report', HMSO, 1995.

4 'Government Response to the UK Steering Group Report on Biodiversity', Cm 3260, HMSO, 1996.

5 'Sustaining the Variety of Life, Five Years of the UK Biodiversity Action Plan', DETR, 2001.

6 United Nations Convention on Biological Diversity, 1992.

7 Countryside and Rights of Way Act, 2000.

8 S 74(7) of the Countryside and Rights of Way Act defines 'conservation' as including enhancement and restoration.

CONSERVING AND IMPROVING NATURAL HERITAGE AND THE COAST

- the overall populations and natural ranges of native species;
- internationally important and threatened species, habitats and ecosystems;
- species, habitats and natural and managed ecosystems characteristic of local areas; and
- biodiversity of natural and semi-natural habitats where this has been diminished over recent decades.

5.2.4 The Assembly is committed to promoting Habitat and Species Action Plans relevant to Wales prepared under the UKBAP in fulfilment of its obligations under the Countryside and Rights of Way Act.

5.2.5 The UKBAP objectives can best be realised through close co-operation and partnership between public agencies, local communities and the private and voluntary sectors. In line with its commitment to active community involvement in the planning process, the Assembly Government supports the preparation of Local Biodiversity Action Plans (LBAPs) as a means of engaging communities and private sector organisations in the conservation and enhancement of biodiversity at the local level to achieve these national goals^{9, 10}.

5.2.6 The Wales Biodiversity Group has a special role in taking biodiversity commitments forward in partnership with local authorities, Assembly Sponsored Public Bodies (ASPBs), non-governmental organisations, the private sector and local communities. It has issued practical guidance on the preparation of LBAPs¹¹.

5.2.7 The planning system has an important part to play in meeting biodiversity objectives by promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.^{12,13,14} Local planning authorities must address biodiversity issues, insofar as they relate to land use planning, in both UDPs and development control decisions.

Reference

9 'Guidance for Local Biodiversity Action Plans', Guidance Notes 1-5, UK Local Issues Advisory Group, Local Government Management Board/UK Biodiversity Group, 1997.

10 'Action for Wildlife: Biodiversity Action Plans in Wales', CCW, 1996.

11 'The Context for Local Biodiversity Action Plans in Wales', Supplement to UK Guidance Note 3, Wales Biodiversity Group, 1998.

12 Planning for Biodiversity Good Practice Guide, RTPI, 1999.

13 'Developing Naturally. A Handbook for Incorporating the National Environment into Planning & Development', Michael Oxford/Association of Local Government Ecologists/English Nature, 2000.

14 'Best Value for Biodiversity - helping to achieve continuous improvement for biological conservation within local government', Association of Local Government Ecologists, 2001.

Trees and woodlands¹⁵

5.2.8 Trees, woodlands and hedgerows are of great importance, both as wildlife habitats and in terms of their contribution to landscape character and beauty. Local planning authorities should seek to protect trees, groups of trees and areas of woodland where they have natural heritage value or contribute to the character or amenity of a particular locality. Ancient and semi-natural woodlands are irreplaceable habitats of high biodiversity value which should be protected from development that would result in significant damage.

5.2.9 Local planning authorities should, as appropriate, make full use of their powers to protect and plant trees to maintain and improve the appearance of the countryside and built up areas.

Commons

5.2.10 Common land is a finite resource and should not be developed unnecessarily. Access to it should not be prevented or impeded unnecessarily, and its proper management should be encouraged.

5.3 Measures to conserve landscape and biodiversity

Statutory designations

5.3.1 Many of the most important areas of landscape quality and nature conservation have been statutorily designated. These statutorily designated sites make a vital contribution to protecting landscape and biodiversity and can also be important in providing opportunities for sustainable economic and social development.

5.3.2 Local planning authorities should have regard to the relative significance of international, national and local designations in considering the weight to be attached to nature conservation interests and should take care to avoid placing unnecessary constraints on development.

5.3.3 The **Statutory Landscape Designations**^{16,17,18} which apply in Wales are National Parks and Areas of Outstanding Natural Beauty (AONBs).

References

15 'Woodlands for Wales - The National Assembly for Wales Strategy for Trees and Woodlands', National Assembly for Wales, 2001

16 Countryside Act, 1968.

17 Environment Act 1995, Part III.

18 Welsh Office Circular 13/99, 'Environment Act 1995, Part III National Parks in Wales'

CONSERVING AND IMPROVING NATURAL HERITAGE AND THE COAST

5.3.4 The statutory purposes of National Parks are to conserve and enhance their natural beauty, wildlife and cultural heritage and to promote opportunities for public understanding and enjoyment of their special qualities¹⁹. Where it appears that there is a conflict between those purposes, greater weight shall be given to the first. National Park Authorities have been set up to pursue these purposes, and other public bodies and other relevant authorities have a statutory duty to have regard to these purposes²⁰. National Park Authorities also have a duty to seek to foster the economic and social well-being of their local communities²¹.

5.3.5 The primary objective for designating AONBs is the conservation and enhancement of their natural beauty²². UDP policies and development control decisions affecting AONBs should favour conservation of natural beauty, although it will also be appropriate to have regard to the economic and social well-being of the areas. Local authorities, other public bodies and other relevant authorities have a statutory duty to have regard to AONB purposes²³.

5.3.6 National Parks and AONBs are of equal status in terms of landscape and scenic beauty and both must be afforded the highest status of protection from inappropriate developments. In UDP policies and development control decisions National Parks and AONBs must be treated as of equivalent status. In National Parks and AONBs, UDP policies and development control decisions should give great weight to conserving and enhancing the natural beauty, wildlife and cultural heritage of these areas.

5.3.7 The duty to have regard to National Park and AONB purposes applies to activities affecting these areas, whether those activities lie within or outside the designated areas.

5.3.8 The **Statutory Nature Conservation Designations**^{24,25,26,27,28,29} include, for example, Sites of Special Scientific Interest (SSSIs), sites designated under the Ramsar Convention and those designated under EC Directives, such as Special Protection Areas (SPAs) or Special Areas of Conservation (SACs).

5.3.9 The Assembly will ensure that international responsibilities and obligations for conservation are fully met, and that, consistent with the objectives of the designation, statutorily designated sites are protected from damage and deterioration, with their important features conserved by appropriate management.

Reference

19 Environment Act 1995 S.61

20 Environment Act 1995, S62 (see also Welsh Office Circular 13/99, 'Environment Act 1995, Part III National Parks in Wales')

21 Environment Act, 1995, S.62.

22 National Parks and Access to the Countryside Act, 1949.

23 Countryside and Rights of Way Act, 2000, S 85.

24 Wildlife and Countryside Act, 1981.

25 Technical Advice Note (Wales) 5, 'Nature Conservation and Planning', 1996.

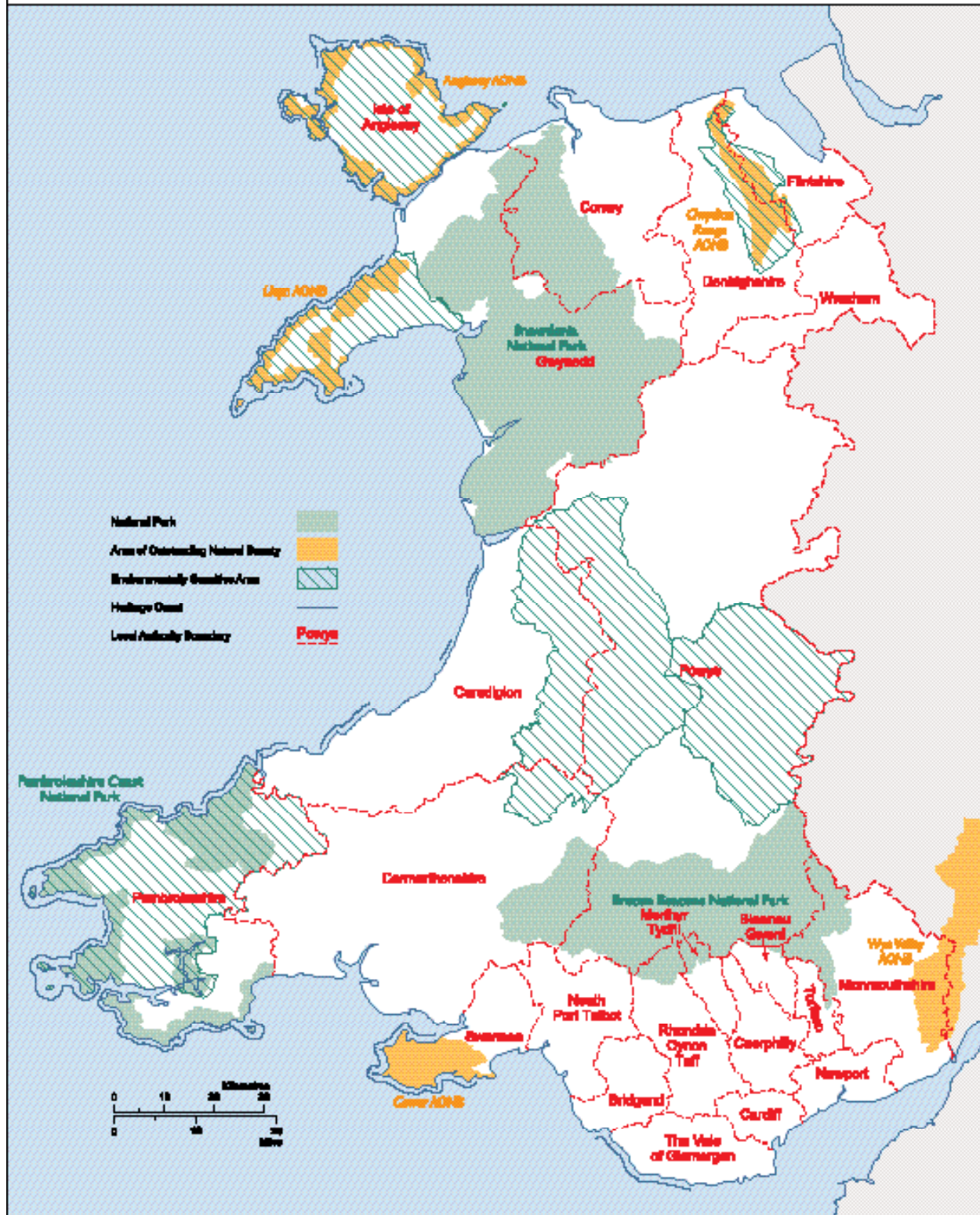
26 EC Directive 1992/43/EEC on Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive)

27 EC Directive 1979/409/EEC on the Conservation of Wild Birds (Birds Directive)

28 Convention on Wetlands of International Importance especially as a Waterfowl Habitat, (Ramsar Convention 1971 as amended)

29 Conservation (Natural Habitats, &c) Regulations 1994 (SI 1994/2716)

Map 5.1 Natural Heritage Sites in Wales
Landscape Designations, Environmentally Sensitive Areas and Heritage Coasts

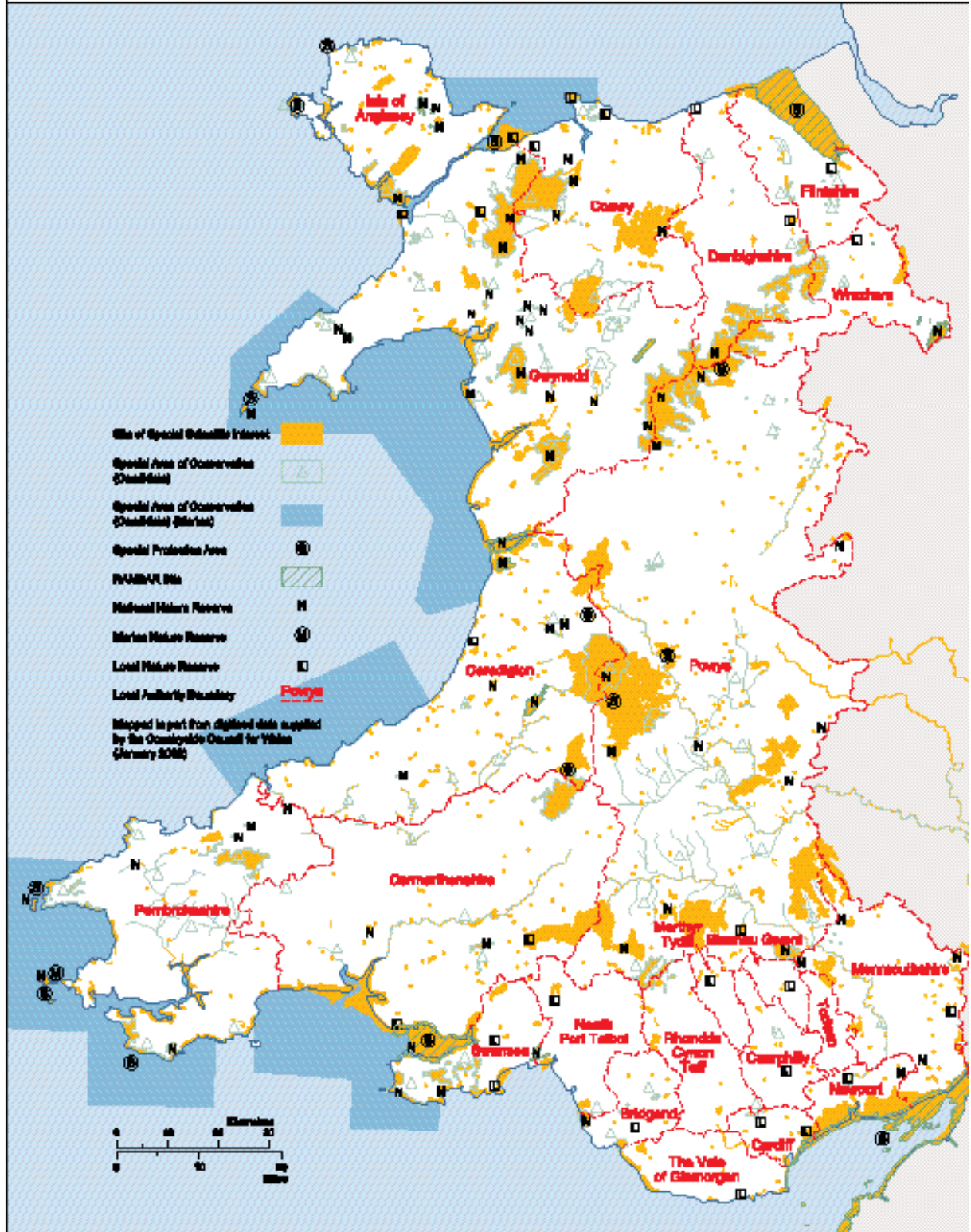


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Based on the Ordnance Survey map

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Map 5.2 Natural Heritage Sites in Wales
Nature Conservation Designations



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5.3.10 For the purposes of land use planning, potential SPAs and candidate SACs (included in the list sent to the European Commission) should be treated in the same way as classified SPAs and designated SACs. Sites which the UK and the European Commission have agreed as Sites of Community Importance and which are to be designated as SACs attract the same legal protection as if they had already been designated. The same considerations should, as a matter of policy, be applied to listed Ramsar sites.

References

Non-statutory designations

5.3.11 Non-statutory designations, such as Special Landscape Areas or Sites of Interest for Nature Conservation, should be soundly based on a formal scientific assessment of the nature conservation, landscape or geological value of the site. Local non-statutory sites can add value to the planning process particularly if such designations are informed by community participation and reflect community values. Local planning authorities should apply these designations to areas of substantive conservation value where there is good reason to believe that normal planning policies cannot provide the necessary protection. Such designations should not unduly restrict acceptable development.

5.3.12 Designating an **Environmentally Sensitive Area** does not directly affect the status of the area in planning terms. However, the features which contributed to the designation of such areas may be important in formulating planning policies or making development control decisions.

LANDMAP information system

5.3.13 CCW's LANDMAP information system³⁰ methodology is an important information resource upon which local planning authorities can draw in making the landscape assessments needed to inform local policy, guidance and decision making in this field. LANDMAP describes and evaluates aspects of the landscape and provides the basis of a consistent Wales-wide approach to landscape assessment. LANDMAP assessments should be published. They can help to inform supplementary planning guidance on landscape assessment (covering, for example, local distinctiveness, special landscape areas and design).

30 'The LANDMAP Information System – LANDMAP methodology', Countryside Council for Wales, 2001

5.4 UDPs and the conservation and improvement of the natural heritage

References

5.4.1 UDPs must set out the locational policy framework for the conservation and enhancement of the natural heritage within the context of an integrated strategy for social, economic and environmental development in line with sustainability principles. Plans should seek to conserve and enhance the natural heritage in ways which bring benefits to local communities and encourage social and economic progress. UDPs should be informed by a sustainability appraisal commencing at the outset of the plan (see 3.3).

5.4.2 The UKBAP objectives should be taken into account in the development of UDP policies. Local Biodiversity Action Plans can provide a valuable basis for this. Local authorities should adopt LBAPs as supplementary planning guidance. Principles and targets contained in Local Agenda 21 strategies, national Habitat and Species Action Plans and Countryside and Community Strategies should also inform UDP policies and proposals.

5.4.3 UDPs should encourage the appropriate management of features of the landscape which are of major importance for wild flora and fauna in order to complement and improve the ecological coherence of the Natura 2000³¹ network.³² The features concerned are those which, because of their linear and continuous structure or their function as "stepping stones" or "wildlife corridors", are essential for migration, dispersal or genetic exchange. The development of networks of statutory and non-statutory sites and of the landscape features which provide links from one habitat to another can make an important contribution to the conservation and enhancement of biodiversity and the quality of the local environment. LBAPs are valuable tools for actively involving local communities in the development and management of habitat networks.

5.4.4 Although non-statutory designations carry less weight than statutory designations, they should be given adequate protection in UDPs. Where an assessment has identified that certain features or characteristics of the sites need to be conserved or enhanced, local planning authorities should state in their UDPs what features or characteristics require this extra protection and why, and how the policies will achieve this protection. Policies for non-statutory sites should make it clear that such designations do not preclude appropriate socio-economic activities.

31 Natura 2000 is a coherent European ecological network of sites designated for nature conservation. The network comprises Special Areas of Conservation (SACs) hosting the habitat types listed in Annex I and habitats of the species listed in Annex II of the Habitats Directive and the Special Protection Areas (SPAs) classified under the Birds Directive.

32 Habitats Directive, Article 10

5.4.5 Part 1 of the UDP must:

References

- include strategic policies for the conservation and, where appropriate, enhancement of areas designated as being of international or national importance for biodiversity and landscape.

5.4.6 Part 2 of the UDP should:

- provide for the conservation and, where appropriate, enhancement of biodiversity and landscape outside statutorily designated areas;
- include detailed policies for the conservation and, where appropriate, enhancement of all international, national and local designated sites (including potential SPAs, candidate SACs and listed Ramsar sites), reflecting their relative significance;
- provide criteria against which a development affecting the different types of designated site will be assessed;
- include policies for the conservation and, where appropriate, enhancement of landscape and amenity;
- provide for the conservation of biodiversity outside designated areas, in particular identifying opportunities to conserve important local habitats and species, and to safeguard and manage landscape features of major importance for nature conservation or amenity;
- clarify how biodiversity will be safeguarded outside statutory designated sites without unduly restricting development that is otherwise appropriate;
- provide for the protection and enhancement of open space of conservation value, seeking to identify opportunities to promote responsible public access for enjoyment and understanding of the natural heritage where this is compatible with its conservation and existing land uses;
- make appropriate provision for Local Nature Reserves; and
- include policies for conserving native woodland and protecting and planting trees.

5.4.7 The areas to which conservation policies apply should, wherever practical, be clearly identified on the proposals maps or be capable of being identified from clear criteria in environmental protection policies.

References

5.5 Development Control and the conservation and improvement of the natural heritage

5.5.1 Biodiversity and landscape considerations must be taken into account in determining individual applications and contributing to the implementation of specific projects. The effect of a development proposal on the wildlife or landscape of any area can be a material consideration. In such instances and in the interests of achieving sustainable development it is important to balance conservation objectives with the wider economic needs of local businesses and communities. Where development does occur it is important to ensure that all reasonable steps are taken to safeguard or enhance the environmental quality of land. Pre-application discussions between the developers, local planning authorities and statutory advisers such as CCW and the Environment Agency are recommended.

5.5.2 When considering any development proposal (including on land allocated for development in a UDP) local planning authorities should consider environmental impact, so as to avoid, wherever possible, adverse effects on the environment. Where other material considerations outweigh the potential adverse environmental effects, authorities should seek to minimise those effects and should, where possible, retain and, where practicable, enhance features of conservation importance.

5.5.3 In some cases it will be necessary to refuse planning permission on conservation grounds. However, local planning authorities must always consider whether environmental issues could be adequately addressed by modifying the development proposal or by attaching appropriate planning conditions or obligations. Where this is not possible and the adverse effect on the environment clearly outweighs other material considerations the development should be refused.

5.5.4 In all planning applications likely to result in disturbance or harm to a protected species or likely to have a significant adverse effect on sites of more than local importance, or on a designated area, local planning authorities should seek the advice of CCW and should always consult them before granting permission.

Development control and statutory designations

References

5.5.5 Statutory designation does not necessarily prohibit development, but proposals for development must be carefully assessed for their effect on those natural heritage interests which the designation is intended to protect.

5.5.6 In **National Parks or AONBs**, special considerations apply to major development proposals which are more national³³ than local in character. Major developments should not take place in National Parks or AONBs except in exceptional circumstances. This may arise where, after rigorous examination, there is demonstrated to be an overriding public need and refusal would be severely detrimental to the local economy and there is no potential for locating the development elsewhere or meeting the need in some other way. Any construction and restoration must be carried out to high environmental standards. Consideration of applications for major developments should therefore include an assessment of:

33 'National' in this context means UK.

- the need for the development, in terms of national considerations, and the impact of permitting it or refusing it upon the local economy;
- the cost of, and scope for, providing the development outside the designated area or meeting the need for it in some other way;
- any detrimental effect on the environment and the landscape, and the extent to which that could be moderated.

5.5.7 In National Parks, AONBs and other sensitive landscape and nature conservation areas³⁴ environmental impact assessment is likely to be required for a greater proportion of Schedule 2 proposals than in the wider countryside.

34 Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999/293). Sensitive areas for the purposes of EIA are defined in Regulation 2(1)

5.5.8 With regard to **SSSIs**, which are of national importance, the Wildlife and Countryside Act, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies (including local planning authorities) to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest³⁵. SSSIs can be damaged by developments within or adjacent to their boundaries, and in some cases, by development some distance away. There is a presumption against development likely to damage a SSSI. Before authorising operations likely to

35 Wildlife and Countryside Act, 1981 as amended by Sch. 9 of the Countryside and Rights of Way Act, 2000

CONSERVING AND IMPROVING NATURAL HERITAGE AND THE COAST

damage any of the notified features on a SSSI, local planning authorities must give notice of the proposed operations to CCW, and must take its advice into account in deciding whether to grant planning permission and in attaching planning conditions³⁶.

5.5.9 Consideration should be given to the need for **Environmental Impact Assessment (EIA)** where a development listed in Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 is likely to have a significant effect on the special features of a SSSI (see 4.3). In practice, the effect of a Schedule 2 development on a SSSI will often be such as to require EIA. Whilst each case should be judged on its merits, EIA would normally be required where a proposed or listed Ramsar site, a potential or classified SPA or a candidate or designated SAC could be affected. In such instances, an appropriate assessment of the development's implications for the site under the Habitats Regulations shall be required where development proposals are likely to have a significant effect on the site. Local planning authorities should consult CCW if uncertain about the significance of a project's likely effect on the environment.

5.5.10 The Assembly, on the advice of CCW, will normally call in, for its own determination, planning applications which are likely to have a significant effect on sites of more than local importance, for example, SSSIs, SPAs, candidate or designated SACs and sites listed under the Ramsar Convention³⁷.

Protected species

5.5.11 The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat.^{38,39,40} Local planning authorities should advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site concerned, and should consult CCW before granting permission. An ecological survey to confirm whether a protected species is present and an assessment of the likely impact of the development on a protected species may be required in order to inform the planning decision.

5.5.12 Developments are always subject to the legislation covering European protected species⁴¹ regardless of whether or not they are within a designated site. New developments for which development works would contravene the protection afforded to European

References

36 The Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419 as amended), Article 10

37 <http://www.jncc.gov.uk/idet/default.htm> – provides details of SAC and SPA lists; http://www.ramsar.org/w.n.uk_ramsar_policy.htm – provides a list of Ramsar sites.

38 Conservation (Natural Habitats, &c) Regulations 1994 (SI 1994/2716)

39 Wildlife and Countryside Act, 1981

40 Protection of Badgers Act, 1992

41 Species listed in Habitat Regulations, Schedules 2 and 4

protected species require derogations from the provisions of the Habitats Directive. A derogation⁴² may only be authorised if there is no satisfactory alternative and if the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. The development works to be authorised must be for the purposes of preserving "public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment"⁴³. Derogations are granted by a license issued by the Assembly.⁴⁴ Local planning authorities are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions. To avoid developments with planning permission subsequently not being granted a derogation in relation to European protected species, planning authorities should take the three requirements for a derogation into account when considering development proposals where a European protected species is present.

Trees and woods⁴⁵

5.5.13 Local authorities have a duty to ensure that adequate provision is made for the planting or preservation of trees by imposing conditions when granting planning permission and/or by making Tree Preservation Orders (TPOs).

5.5.14 Local authorities have a general power to make TPOs if it appears it is expedient to do so in the interests of amenity. They can make a provisional TPO which takes effect immediately, and it can remain effective for 6 months or until the TPO is confirmed.

5.5.15 In the case of a site recorded on the inventory of ancient woodland produced by CCW, authorities should consult with CCW and, if relevant, the Forestry Commission, before authorising potentially damaging operations.

Commons and greens

5.5.16 Where planning permission is being granted for a development on common land, an advisory note can be attached stating that the consent of the Assembly may be required under the various common land legislation provisions, the most usual being Section 194 of the Law of Property Act 1925.

References

42 A 'derogation' is an authorised departure from the system of protection.

43 Conservation (Natural Habitats, &c) Regulations 1994 (SI 1994/2716)

44 National Assembly for Wales Circular 23/2001, 'New Guidance for Local Planning Authorities on European Protected Species and Changes in Licensing Procedures'

45 Technical Advice Note (Wales) 10, 'Tree Preservation Orders', 1997

CONSERVING AND IMPROVING NATURAL HERITAGE AND THE COAST

5.5.17 Town and village greens are well protected by legislation and development is generally prohibited except where the development is for the better enjoyment of the land for sports and pastimes and in other limited circumstances.

Allotments

5.5.18 Allotments should be retained, particularly where they have an important open space function and contribute to sustainable development. A proposal to appropriate or dispose of statutory allotments for a different use would usually require the local authority to apply for the consent of the Assembly under Section 8 of the Allotments Act 1925.

5.6 Managing the coast

5.6.1 The European Union is working to introduce a co-ordinated policy for coastal regions and is calling on Member States to put in place strategies for Integrated Coastal Zone Management (ICZM). ICZM is intended to be a participatory and dynamic process for integrating the policies influencing coastal regions, so as to ensure that the management of these areas is environmentally and economically sustainable and socially equitable and cohesive.^{46, 47}

5.6.2 The Assembly Government's objectives for the coast are to⁴⁸:

- recognise the importance of the coast for conservation of the natural and historic environment;
- recognise the importance of the coast for urban and rural development, including housing, local industry and agriculture; and
- recognise the importance of the coast for tourism, leisure and recreation.

5.6.3 Local planning authorities should clearly establish what the coast means for them and develop, or apply, specific policies which reflect the characteristics of their coastlines. In doing so, local planning authorities should acknowledge the inter-relationships between the physical, biological and land use characteristics of their coastal areas and the likely effects of climate change. This will enable local planning authorities to identify those areas likely to be suitable for development, those subject to significant constraints and those considered to be unsuitable for development. Areas subject to constraints or considered unsuitable for development may

References

46 A communication from the Commission to the Council and the European Parliament, 'Integrated Coastal Zone Management: A Strategy for Europe' (COM/00/547 of 17th September 2000)

47 A proposal for a European Parliament and Council Recommendation concerning the implementation of Integrated Coastal Zone Management in Europe (COM/00545 of 8th September 2000)

48 'The Coast and Inshore Waters of Wales – an inheritance document for the National Assembly for Wales', 1999

include those where conservation or enhancement of the natural and historic environment requires development to be limited, where visual intrusion will need to be carefully considered and where there may be risks of erosion, flooding or land instability. In other areas the economic potential of the coast may be unlocked in a sustainable manner.

References

5.7 UDPs and the coast

5.7.1 In preparing their UDPs local planning authorities will be expected to take into account other plans and policies with implications for the coastal area. They will need to consider landward and seaward pressures - and the impacts of these pressures - on coastal systems. Landward pressures may include major developments on the coast, port and harbour works, leisure and recreational facilities, wind power generation or coastal defences. Seaward pressures may include waste disposal, sea fishing, increased leisure sailing, dredging of navigable channels, water sports and bathing, marine aggregates extraction or tidal and wave power generation. The impacts associated with such activities can be widespread and may relate to inappropriate land use, pressure for services and facilities, and impacts on existing businesses and employment as well as on the natural and historic character of the coastline.

5.7.2 UDPs should normally only propose coastal locations for development which needs to be on the coast.⁴⁹ In particular, the undeveloped coast will rarely be the most appropriate location for development. The developed coast, by contrast, may provide opportunities for restructuring and regenerating existing urban areas. Where new development requires a coastal location, the developed coast will normally provide the best option, provided that due regard is paid to the risks of erosion, flooding or land instability.

49 Technical Advice Note (Wales) 14, 'Coastal Planning', 1998

5.7.3 Proposed developments of national or regional importance that require a coastal location should be included in the UDP.

5.7.4 Policies should aim to protect or enhance the character and landscape of the undeveloped coastline. Planning policies to be pursued in **Heritage Coast** areas should be incorporated in UDPs. Designation as a heritage coast does not directly affect the status of the area in planning terms. However, the features which contributed to the designation of such areas may be important in formulating planning policies or making development control decisions.

CONSERVING AND IMPROVING NATURAL HERITAGE AND THE COAST

5.7.5 In low-lying, undeveloped coastal areas, options for coastal defence may include a policy of managed set back⁵⁰.

5.7.6 For estuaries and parts of the open coast, local planning authorities and other agencies and interest groups may co-operate to prepare estuary or coastal management plans. These should complement and be consistent with UDP policies.

5.8 Development Control and the coast

5.8.1 The seaward limit of planning control is generally the mean low water mark, but between high and low water mark the planning system usually needs to operate in conjunction with a range of sectoral controls over coastal and marine development. Decisions on development proposals below mean water mark are generally outside the scope of the planning system and are regulated according to the type of activity. Examples include licenses for oil and gas and water or wind driven generating systems issued by the Department of Trade and Industry. In this context it is important to recognise that on-shore development can often have an impact off-shore. For example, while planning control does not extend below the low water mark, the SAC designation may be applied to marine habitats as both existing and potential SACs and SPAs include a number of estuarine and other coastal areas. Planning authorities will have an important role in the protection of designated marine and coastal areas where a land based development might have an effect on the reasons for designation, and in preventing any significant effect on such areas of nature conservation interest.

5.8.2 Before major developments are permitted it will be essential to demonstrate that a coastal location is required.

5.8.3 New coastal development should not generally be permitted in areas which would need expensive engineering works, either to protect developments on land subject to erosion by the sea or to defend land which might be inundated by the sea. There is also the need to consider the possibility of such works causing a transfer of risks to other areas.

5.8.4 In considering applications for planning permission for new coastal defence works, local planning authorities should take into account all potential environmental effects, both on and off-shore, and information contained in shoreline management plans.

References

50 'Strategy for Flood and Coastal Defence in England and Wales', MAFF / Welsh Office, 1993

CHAPTER 6 CONSERVING THE HISTORIC ENVIRONMENT

References

6.1 Objectives

6.1.1 It is important that the historic environment^{1,2,3,4,5} - encompassing archaeology and ancient monuments⁶, listed buildings⁷, conservation areas and historic parks, gardens and landscapes – is protected. The Assembly Government's objectives in this field are to :

- preserve and enhance the historic environment, recognising its contribution to economic vitality and culture, civic pride and the quality of life, and its importance as a resource for future generations; and specifically to
- protect archaeological remains, which are a finite and non-renewable resource, part of the historical and cultural identity of Wales, and valuable both for their own sake and for their role in education, leisure and the economy, particularly tourism;
- ensure that the character of historic buildings is safeguarded from alterations, extensions or demolition that would compromise a building's special architectural and historic interest; and to
- ensure that conservation areas are protected and enhanced, while at the same time remaining alive and prosperous, avoiding unnecessarily detailed controls over businesses and householders.

6.1.2 Local planning authorities have an important role in securing the conservation of the historic environment while ensuring that it accommodates and remains responsive to present day needs. This is a key aspect of local authorities' wider sustainable development responsibilities which should be taken into account in both the formulation of planning policies and the exercise of development control functions.

6.2 Working with other agencies

6.2.1 Local planning authorities must work with Government and other agencies having particular responsibilities and powers in respect of the conservation of the historic environment. The Assembly's executive agency Cadw: Welsh Historic Monuments has

1 Planning (Listed Buildings and Conservation Areas) Regulations 1990, SI No. 1990/1519

2 Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'

3 Welsh Office Circular 1/98, 'Planning and the Historic Environment: Directions by the Secretary of State for Wales'

4 Technical Advice Note (Wales) 12, 'Design', 2002

5 Welsh Office Circular 13/99, 'Environment Act 1995, Part III, National Parks in Wales'.

6 Ancient Monuments and Archaeological Areas Act 1979

7 Planning (Listed Buildings and Conservation Areas) Act 1990

responsibility for protecting, conserving and promoting an appreciation of the historic environment of Wales. The Assembly has a duty to compile lists of buildings of special architectural or historic interest. Listing ensures that the special interest of these buildings is recognised and that works which would affect them are brought within statutory control. It may schedule ancient monuments considered to be of national importance and has responsibilities for determining applications for consent to works affecting scheduled monuments and local authority owned listed buildings. The Assembly also has to be notified by local authorities of certain applications for listed building consent so that it can consider whether the application should be called in for its determination and for the demolition of buildings in conservation areas. The Royal Commission on the Ancient and Historical Monuments of Wales is the national body of survey and record. It compiles and makes available a comprehensive archive and national database of ancient monuments and historic buildings in Wales (the National Monuments Record) for use by individuals and bodies concerned with understanding, conserving and managing the built environment. The Royal Commission must be notified by local planning authorities of all proposals to demolish listed buildings. The four Welsh Archaeological Trusts maintain the Sites and Monuments Record and implement schemes to mitigate adverse development impacts on archaeological remains. They also provide archaeological advice to local planning authorities and should be contacted, as appropriate, in the exercise of plan preparation and development control functions.

6.3 Designating Conservation Areas

6.3.1 **Conservation area designation**^{8,9} is the main instrument available to local planning authorities to give effect to conservation policies for a particular neighbourhood or area. They must designate as a conservation area any 'area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance'¹⁰. Authorities should advise Cadw when conservation areas are designated¹¹.

6.3.2 Local planning authorities are required to formulate and publish proposals for the preservation and enhancement of conservation areas¹². The positive management of conservation areas is necessary if their character or appearance is to be protected and enhanced. Authorities should establish consistent criteria against which existing and/or new conservation areas and their boundaries should be reviewed. Cancellation of designation should

References

8 Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'

9 Welsh Office Circular 29/95, 'General Development Order Consolidation 1995'

10 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 69

11 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 70(5)

12 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 71

be considered where an area, or part of an area, is no longer considered to possess the special interest which led to its designation.

6.3.3 The preparation of townscape audits and conservation area character appraisals can assist planning authorities in the exercise of their planning and development control functions.

6.4 UDPs and the historic environment

6.4.1 UDPs should set out policies for the preservation and enhancement of the historic environment in the area they cover and the factors to be taken into account in assessing planning applications. UDPs should also set out proposals for re-use or new development affecting historic areas and buildings, which may assist in achieving the Assembly Government's objectives for urban regeneration.

6.4.2 UDPs should include policies for the protection and enhancement of **sites of archaeological interest** and their settings. Archaeological remains scheduled as being of national importance should be identified for preservation. Not all nationally important remains meriting preservation will necessarily be scheduled. Such remains and, in appropriate circumstances, other unscheduled archaeological remains of more local importance, and their settings, may also be identified in UDPs as particularly worthy of preservation.

6.4.3 Local planning authorities should not include in their UDPs policies requiring developers to finance archaeological works in return for the grant of planning permission. Developers should not expect to obtain planning permission for archaeologically damaging development merely because they arrange for the recording of sites whose physical preservation in situ is both desirable (because of their level of importance) and feasible.

6.4.4 There is no statutory requirement to have regard to the provisions of the UDP when considering applications for **listed building consent** or for **conservation area consent**, since in these cases the Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply. However, UDPs should include policies for the conservation of the built environment that are relevant to development control decisions and which should be taken into consideration in the determination of applications for both listed building consent and conservation area consent.

References

CONSERVING THE HISTORIC ENVIRONMENT

6.4.5 UDPs should include policies for works of demolition, alteration, extension or re-use of **listed buildings and their curtilages**, outlining any criteria that will be applied to development proposals and which could affect an authority's decision on a related application for planning permission.

6.4.6 There should be a general presumption in favour of the preservation of listed buildings. The continuation or reinstatement of the original use should generally be the first option when the future of a listed building is considered. However, not all original uses will now be viable or necessarily appropriate. Policies for development and listed building controls should recognise the need for flexibility where new uses have to be considered to secure a building's survival. The aim should be to identify the optimum viable use that is compatible with the character and setting of an historic building.

6.4.7 UDP policies should make it clear that development proposals will be judged for their effect on the character and appearance of **conservation areas**, as identified in the assessment and proposal document, to ensure that any new development is in accord with the area's special architectural and historic interest. While the character or appearance of conservation areas must be major considerations, they cannot prevent all new development.

6.4.8 UDPs should clearly indicate how detailed assessment documents and statements of proposals for individual conservation areas relate to the plan and what weight will be given to them in decisions on planning applications. The UDP should not include policies for the designation of new conservation areas or extensions to existing conservation areas, nor should it include detailed statements or proposals for existing conservation areas. The process of assessment, detailed definition or revision of boundaries and formulation of proposals for individual conservation areas should be pursued separately from the UDP.

6.4.9 Although no additional statutory controls follow from the inclusion of a site in the World Heritage List, such **World Heritage sites** have been designated because of their outstanding international importance. UDP policies should reflect this, emphasising the need to protect both the sites and their settings for future generations.

6.4.10 A non-statutory 'Register of **Landscapes, Parks and Gardens** of Special Historic Interest in Wales'¹³ has been prepared in two parts. The first part, consisting of six volumes, covers parks and

References

13 'Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales', CCW, Cadw, ICOMOS UK - Part 1: Parks and Gardens (published on a county basis); Part 2.1: Landscapes of Outstanding Historic Interest; Part 2.2: Landscapes of Special Historic Interest

gardens, by unitary authority and former county council areas, while the second is divided into two volumes, covering 'outstanding' and 'special' historic landscapes throughout Wales. Local planning authorities should take both parts of the Register into account in preparing their UDPs (see para 6.5.23).

References

6.4.11 Part 1 of the UDP must:

- set out policies for the preservation, conservation and enhancement of the historic environment.

6.4.12 Part 2 of the UDP should:

- set out the factors relating to the historic environment to be taken into account in assessing planning applications;
- include proposals for re-use or new development affecting historic sites and buildings likely to contribute to urban regeneration;
- include policies and proposals for the protection and enhancement of sites of archaeological interest and their settings, identifying scheduled archaeological remains and, where appropriate, identifying for preservation unscheduled remains of local importance;
- include policies for works of demolition, alteration, extension or re-use of listed buildings and their curtilages;
- set out criteria to be applied to development proposals impinging upon listed buildings; and
- set out the criteria against which existing or new conservation areas and their boundaries will be reviewed.

6.5 Development control and the historic environment

Archaeological remains

6.5.1 The desirability of preserving an **ancient monument** and its setting is a material consideration in determining a planning application, whether that monument is scheduled or unscheduled. Where nationally important **archaeological remains**, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of

CONSERVING THE HISTORIC ENVIRONMENT

their physical preservation in situ. In cases involving lesser archaeological remains, local planning authorities will need to weigh the relative importance of archaeology against other factors, including the need for the proposed development.

6.5.2 The needs of archaeology and development can be reconciled, and potential conflict very much reduced, if developers discuss their proposals for development with the local planning authority at an early stage. Archaeological assessments commissioned by developers (sometimes as part of a wider Environmental Impact Assessment) can help to provide information on the archaeological sensitivity of a site before submitting a planning application. If important remains are thought to exist at a development site, the planning authority should request the prospective developer to arrange for an archaeological field evaluation to be carried out before any decision on the planning application is taken¹⁴. The results of any assessment and/or field evaluation should be provided as part of a planning application. If this information is not provided, authorities should consider whether it is appropriate to direct the applicant to supply further information, or whether to refuse permission for inadequately documented proposals.

6.5.3 Where local planning authorities decide that physical preservation in situ of archaeological remains is not justified in the circumstances of the case, and that development resulting in the destruction of the archaeological remains should proceed, before granting planning permission the authority needs to be satisfied that the developer has made appropriate and satisfactory provision for the archaeological investigation and subsequent recording of the remains and the publication of the results. Archaeological investigations should be carried out before development commences, working to a project brief prepared by the planning authority.

6.5.4 Local planning authorities may impose conditions to protect a monument and require that an archaeological watching brief is carried out. In order to secure the provision of an appropriate archaeological investigation and subsequent recording of remains, a negative condition may be imposed prohibiting the carrying out of the development until such time as works or other action (for example, an excavation) have been carried out by a third party¹⁵.

6.5.5 Archaeological remains may only become apparent when development has commenced. Where such remains are deemed by

References

14 Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'

15 Welsh Office Circular 60/96, 'Planning and the Historic Environment: Archaeology'

the Assembly to be of national importance, the remains may be scheduled. In these circumstances, developers would need to seek separate Scheduled Monument Consent before continuing work. The local planning authority or the Assembly may revoke planning consent if deemed necessary.

6.5.6 Local planning authorities are required to consult the Assembly on any development proposal that is likely to affect the site of a scheduled ancient monument. **Scheduled Monument Consent** must be sought from the Assembly for any proposed works to a scheduled ancient monument. Consent can only be granted for detailed proposals, and planning permission alone is insufficient to authorise the works¹⁶. Scheduled Ancient Monuments are exempt from conservation area control; however, where buildings are both scheduled and listed, ancient monument legislation takes precedence and Scheduled Monument Consent, rather than listed building consent, is required for works. In these cases, when considering applications for demolition the Assembly will have regard to the need to explore alternative uses. Where alterations are proposed, regard will be had to the retention of important features.

Listed buildings

6.5.7 Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.

6.5.8 Applicants for **listed building consent** must be able to justify their proposals, showing why alteration or demolition of a listed building is desirable or necessary. It is generally preferable for both the applicant and the planning authority if related applications for planning permission and listed building consent are considered concurrently. Consideration of proposals for a listed building should be made on the basis of a full, rather than an outline planning consent. Planning permission alone is insufficient to authorise works to a listed building.

6.5.9 Planning authorities must, unless directed otherwise, notify the Assembly before listed building consent is granted^{17,18}. Once a building is listed (or is the subject of a building preservation notice) consent is required¹⁹ for its total or partial demolition and for any works of alteration or extension which would affect its character as

References

16 Ancient Monuments (Class Consents) Order 1994 (SI 1994/1381)

17 Welsh Office Circular 1/98, 'Planning and the Historic Environment: Directions by the Secretary of State for Wales'

18 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 13

19 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 7

CONSERVING THE HISTORIC ENVIRONMENT

a building of special architectural or historic interest. Controls apply to all works, both external and internal, that would affect a building's special interest.

6.5.10 While it is an objective of Assembly Government policy to secure the preservation of historic buildings, there will very occasionally be **cases where demolition is unavoidable**. Listed building controls ensure that proposals for demolition are fully scrutinised and justified before any decision is reached. The demolition of any Grade I or Grade II* listed building should be wholly exceptional and require the strongest justification. In determining applications for total or substantial demolition of listed buildings, authorities should take into account the condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use, the adequacy of efforts made to retain the building in use and the merits of alternative proposals for the site. The Assembly Government would not expect consent to be given without convincing evidence that all reasonable efforts have been made to sustain existing uses, or to find viable new uses, and that these efforts have failed; that preservation in some form of charitable or community ownership is not possible or suitable; or that redevelopment would produce substantial benefits for the community which would decisively outweigh the loss resulting from demolition. Authorities should not authorise demolition of an historic building to make way for new development unless certain that the new development will proceed. This requirement can be secured by condition. Conditions may also be used to require the preservation of particular features and/or to require works to be carried out in a certain way.

6.5.11 The Royal Commission on the Ancient and Historical Monuments of Wales must be notified of all proposals to demolish listed buildings and is allowed access to buildings which it wishes to record before demolition takes place. Local planning authorities should consider, in all cases of alteration or demolition, whether it is appropriate to make the recording of features that would be destroyed by the works a condition of planning consent²⁰. Authorities should not, however, require applicants to finance recording programmes in return for the granting of consent and applicants should not be expected to be granted consent because they have arranged suitable programmes.

6.5.12 The objectives of Listed Building designation can generally be met through a planning authority's UDP and development control functions. In exceptional circumstances, where there is a real and

References

20 Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'

specific threat, **Article 4 Directions** bringing certain categories of permitted development within planning control can be made by local authorities without the need for approval by the Assembly. Directions must relate solely to a listed building or to development within the curtilage of a listed building, provided that they do not affect the carrying out of development by a statutory undertaker²¹.

6.5.13 Local planning authorities have the power to serve **Building Preservation Notices** in respect of buildings which are not listed, but which they consider are of special architectural or historic interest and in danger of demolition or alteration in such a way as to affect their character as buildings of such interest. A Notice applies a majority of the Act's provisions relating to Listed Buildings^{22,23} to the building concerned and takes effect immediately it is served.

Conservation areas

6.5.14 There is no statutory requirement to have regard to the provisions of the UDP when considering **applications for conservation area consent**, since in these cases the courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply.

6.5.15 If any proposed development would conflict with the objective of preserving or enhancing the character or appearance of a conservation area, or its setting, there will be a strong presumption against the grant of planning permission. In exceptional cases the presumption may be overridden in favour of development deemed desirable on the grounds of some other public interest. The courts have held that the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.

6.5.16 Conservation area designation introduces control over the total or substantial **demolition²⁴ of unlisted buildings within conservation areas²⁵**. Partial demolition of an unlisted building within a conservation area does not require conservation area consent. Procedures for conservation area consent are essentially the same as for listed building consent. In exercising controls, account should be taken of the part played in the architectural or historic interest of the area by the building for which demolition is proposed, in particular of the wider effects of demolition on the building's surroundings and on the conservation area as a whole. Consideration should also be given to replacement structures. The general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area.

References

21 Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418), Article 4

22 Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'

23 Planning (Listed Buildings and Conservation Areas) Act 1990

24 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 74

25 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 75

CONSERVING THE HISTORIC ENVIRONMENT

6.5.17 In considering planning **applications for advertisements in conservation areas**, local planning authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

6.5.18 Authorities should take into account the visual, historic and amenity contribution of **trees in conservation areas**. New planting or replanting may be appropriate where consistent with the character and appearance of the area. Special provisions apply for trees in conservation areas which are not the subject of Tree Preservation Orders²⁶.

6.5.19 The objectives of conservation area designation can generally be met through a planning authority's UDP and development control functions. The General Permitted Development Order requires planning applications for certain types of development in conservation areas which are elsewhere classified as permitted development. In exceptional circumstances, to help to protect features that are key elements of the character and appearance of particular conservation areas and where there is a real and specific threat, local planning authorities can also withdraw specific permitted development rights through the **use of Article 4 Directions**. The designation of a conservation area does not in itself automatically justify making an Article 4 Direction.

6.5.20 Article 4(2) Directions can be made in relation to dwelling houses in conservation areas where the permitted development would front a highway, waterway or open space. The Assembly's approval is not required, but authorities must notify residents and take account of local views before confirming such a Direction. The withdrawal of permitted development rights outside these specified categories continues to require Article 4(1) Directions for which the Assembly's approval is needed before they can become effective. The Assembly will consider approval where the Direction is backed by a clear assessment of an area's special architectural and historic interest, where the importance to the special interest of the features in question is established, where the Direction involves the minimum withdrawal of permitted development rights necessary to achieve its objectives, and where the planning authority can demonstrate local support.

6.5.21 It is generally preferable for both the applicant and the planning authority if related applications for planning permission and conservation area consent are considered concurrently.

References

26 Welsh Office
Circular 64/78, 'Trees
and Forestry'

Consideration of proposals for development in a conservation area should be made on the basis of a full, rather than an outline consent.

References

World heritage sites and historic landscapes, parks and gardens

6.5.22 **World Heritage Sites**²⁷ are a material consideration to be taken into account by local planning authorities in the determination of planning applications, and by the Assembly in determining cases on appeal or following call-in. The impact of development proposals on both the sites and their settings should be carefully considered.

27 Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'

6.5.23 Local planning authorities should protect parks and gardens and their settings on the first part of the 'Register of **Landscapes, Parks and Gardens** of Special Historic Interest in Wales'. Currently, voluntary arrangements exist for consultation on planning applications affecting parks and gardens and their settings on the Register but it is expected that statutory consultation will be introduced in the near future. Information on the landscapes in the second part of the Register should also be taken into account by local planning authorities in preparing UDPs, and in considering the implications of developments which are of such a scale that they would have a more than local impact on an area on the Register (see para 6.4.10). The effect of proposed development on a park or garden contained in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, or on the setting of such a park or garden, may be a material consideration in the determination of a planning application.

CHAPTER 7 SUPPORTING THE ECONOMY

References

7.1 Objectives

7.1.1 The Assembly Government is committed to building a modern economy with a 'broader economic base that provides job opportunities for all and where greater use of modern technology redresses the problems of access and peripherality'¹.

7.1.2 Gaining Objective 1 status for a large part of Wales confirms the economic and social needs of those areas which have not shared the economic progress of some other parts of Wales. The number and quality of jobs need to be increased and economic inactivity reduced, especially in less prosperous areas.

7.1.3 Developing the new economy of Wales to boost economic performance, and in so doing to raise Welsh GDP per capita, will have a strong spatial dimension. Wealth creation and environmental quality are increasingly interconnected. Recent developments in the economy of Wales highlight the need for employment strategies with the capacity to accommodate rapid change whilst maintaining and enhancing environmental quality².

7.1.4 An efficient and flexible agricultural industry remains essential, and guidance to support this through the land use planning system is contained in this chapter. While the minerals working industry also makes a significant contribution to the overall economy of Wales, minerals planning policy is the subject of a separate policy document³.

7.1.5 The Assembly Government's objectives for economic development are to:

- enhance the economic success of both urban areas and the countryside, helping businesses to maximise their competitiveness;
- support initiative and avoid placing unnecessary burdens on enterprise;
- respect and encourage diversity in the local economy, for example, in rural areas encouraging farm diversification and in urban areas promoting mixed use development;
- promote the exploitation of new technologies which can provide new opportunities; and

1 'Plan for Wales 2001', The Government of the National Assembly for Wales, 2001

2 'Valuing our Environment: Economic Impact of the Environment of Wales', National Trust, 2001

3 Minerals Planning Policy Wales, 2000

- ensure that development for enterprise and employment uses is in line with sustainability principles, respecting the environment in its location, scale and design.

7.1.6 All communities need new employment opportunities. Local planning authorities should formulate and implement land use planning policies for industrial and other employment-generating and wealth-creating development. They should give particular regard to the needs of small and medium sized enterprises (for example, by seeking to accommodate and encourage more flexible working practices within the local economy, such as can occur in mixed use areas), to the green economy (for example by supporting ways to improve the environmental performance of businesses in ways that enhance competitiveness), and to initiatives in the social economy which can help to promote social inclusion.

7.1.7 Local planning authorities should ensure that :

- sufficient land suitable for development for enterprise and employment uses and well served by infrastructure is designated for employment so as to meet both identified and as yet unidentified needs; and that
- new development for enterprise and employment uses is located and implemented in accordance with sustainability principles.

7.1.8 The planning system should be efficient, effective and simple and local planning authorities should ensure that their planning processes are transparent (see 1.2 to 1.3). This will provide greater certainty and clarity for business development.

7.1.9 Land use planning policies for economic development will be neither effective nor sustainable unless they are realistic about resource availability and provide developers and others with scope to make choices to secure the efficient and effective use of those resources. Unitary Development Plans (UDPs) and development control decisions should take account of European, national and local economic and development policies. UDPs should include a broad indication of the assumptions made about the resources (including financial and natural environmental resources) likely to be available for putting plan policies and proposals into effect.

7.2 Designating land for employment needs

References

7.2.1 In **designating land for employment needs**, local planning authorities should address such issues as the phasing of development and the availability of infrastructure against an agreed identified 'requirement'. Some local planning authorities have allocations of land for employment and other uses which cannot realistically be taken up in the quantities envisaged over the lifetime of the UDP. Local planning authorities should therefore review all their non-housing allocations when preparing or reviewing their UDPs and consider whether some of this land might be better used for housing or mixed use developments or no longer be designated for development.

7.2.2 Key employment locations (**key sites**) should be selected in line with sustainable development principles, with preference for the use of previously developed land (see definition at Figure 2.1), proximity to existing urban developments, good accessibility to the public transport and primary road network and good quality telecommunications. Key sites can provide a focus for investment but should not prevent opportunities from arising in other locations, nor should they be used to restrict changes which might be identified as necessary in the review of local economic development policy.

7.2.3 Where policies aim to channel particular types of business development into particular locations clear justification is required. Technology and the requirements of industry and commerce are changing rapidly; plans should reflect this.

7.2.4 **Simplified Planning Zones (SPZs)** offer a means to encourage development and to generate private sector interest. Local planning authorities have a statutory duty to keep under review the desirability of an SPZ scheme for part or parts of their area. Where it is intended that planning consent for development proposed in a UDP will be granted by making an SPZ scheme, this should be indicated in the plan's reasoned justification. Plans should also take account of any existing SPZ scheme in their area.

7.2.5 Many businesses can be located in and around small settlements, and in residential areas in larger settlements, without causing unacceptable disturbance. This can provide employment opportunities for those who cannot readily access major employment sites and can help to tackle social exclusion. In primarily residential areas, policies should not unreasonably seek to restrict commercial and industrial activities of an appropriate scale,

particularly in existing buildings, provided that there are not likely to be adverse effects on residential amenity, landscape quality and the environment.

7.2.6 **Mixed use development** should be promoted in, and adjoining, existing settlements, where appropriate. Policies and supplementary planning guidance should support mixed use developments, including flexible workplace/dwellings and commercial premises, where these are appropriate.

7.2.7 Recognising the need for an **industrial land bank**, and that certain industrial uses have characteristics that preclude their location in mixed use areas, sites designated for industrial development should not be used for other single purposes such as retail, leisure or housing development that could be located elsewhere. Other sites within urban areas which have extant, but unimplemented, permissions for commercial or retailing uses may be suitable for housing (or other) development that could help bring vitality to urban centres.

7.3 Promoting diversification in the rural economy

7.3.1 In rural areas local authorities should prepare an **integrated rural development strategy** to facilitate diversification of the rural economy, seeking to accommodate both traditional rural industries and new enterprises.^{4,5,6} Many commercial and light manufacturing activities (for example the processing of agricultural products⁷ and woodland products) can be located in rural areas without causing unacceptable disturbance or other adverse effects⁸. Small-scale enterprises have a vital role in promoting healthy economic activity in rural areas, which can contribute to both local and national competitiveness. New businesses in rural areas are essential to sustain and improve rural communities, but developments which only offer short-term economic gain will rarely be appropriate.

7.3.2 While some employment can be created in rural locations by the re-use of existing buildings, new development will be required in many parts of rural Wales. New development sites are likely to be small and, with the exception of farm diversification and agricultural development to which separate criteria apply, should generally be located within defined settlement boundaries, preferably where public transport provision is established. However, some industries may have specific land requirements which cannot be accommodated within settlements. The absence of allocated employment sites should not prevent authorities from accommodating appropriate small-scale rural enterprise in or adjoining small rural settlements.

References

4 'Planning for Rural Diversification: A Good Practice Guide', DOE, 1995

5 'Innovating to Succeed', Institute of Welsh Affairs, 2000

6 'A Food Strategy for Wales', Welsh Office, 1996

7 'A Guide for the Food Industry in Wales', Welsh Office, 1997; 'A Guide for the Food Industry in Wales - Addendum', Welsh Office, 1998

8 Technical Advice Note (Wales) 6, 'Agricultural and Rural Development', 2000

SUPPORTING THE ECONOMY

7.3.3 Local planning authorities should adopt a positive approach to development associated with **farm diversification**⁹ in rural areas, irrespective of whether farms are served by public transport. While initial consideration should be given to adapting existing farm buildings, the provision of a sensitively designed new building on a working farm within existing farm complexes may be appropriate where a conversion opportunity does not exist.

7.4 Promoting the green economy, business and technology clusters and social enterprises

7.4.1 Local planning authorities should support the shift towards a green economy by encouraging the development of clusters of industrial and commercial uses deriving environmental benefit from co-location, especially through the development of waste stream technologies and practices (i.e. eco-industrial networks).

7.4.2 Local planning authorities should also seek to support the development of innovative business and technology clusters. UDP policies need to identify potential networks and cluster areas, making clear the criteria used to categorise them, and the links to policies relating to the creation of the transport, environmental and telecommunications infrastructure needed to support such networks.

7.4.3 In drawing up UDP policies and in considering development proposals local planning authorities should take into account the possibility that certain kinds of businesses may be especially important in providing opportunities for social groups disadvantaged within the labour market. Whether this is the case can only be determined by analysis of the circumstances in particular places at particular times, and will need to be kept under review.

7.5 UDPs and the economy

7.5.1 Part 1 of the UDP must:

- set the policy context for the provision of employment, taking into account the local authority's economic development strategies and other relevant plans and strategies, such as the Assembly Government's economic development policies;^{10,11}
- encourage diversification in the local economy and development which respects the environment;

References

9 Farm diversification is defined here as economic diversification on working farms which is subject to planning control.

10 'Pathway to Prosperity – A New Economic Agenda for Wales', National Assembly for Wales, 1999

11 'A Winning Wales, The National Economic Development Strategy of the Welsh Assembly Government', Welsh Assembly Government, 2001

- provide for development to be accommodated within or adjoining the main urban areas and, in rural areas, established local centres. Plans should recognise the interdependence of urban and rural areas, for example encouraging the potential of smaller towns to provide employment both for their own populations and for those who live in surrounding rural areas; and
- for rural areas, set out an integrated rural development strategy for new development based on sustainable development principles and tailored to the area's specific assets and needs¹².

7.5.2 Part 2 of the UDP should:

- include policies to maintain or develop sustainable communities, encouraging environmentally sound and socially responsible economic development;
- identify a range and choice of sites to meet different economic and employment needs, having regard to where the private sector want to invest, and which meet, or have the potential to meet, the Assembly Government's objectives for transport and other relevant policy fields;
- contain policies setting out clear criteria against which new economic development proposals will be assessed. These should not simply list the types of development which might be appropriate but should focus on the impact of different types of development (particularly cumulative impact) and should also set standards of design and scale. The justification for any conditions or agreements should be included;
- establish criteria for key sites, where these are included, making explicit the reasons why they should be differentiated from other sites. The range of uses which are appropriate for key sites should be specified;
- contain appropriate policies in support of the development of innovative business or technology clusters and eco-industrial networks;
- promote the development of under-used and vacant previously developed land and premises, especially those adjacent to existing or disused railway lines or docks,

References

12 'Farm Diversification and the Planning System' Research Report, National Assembly for Wales, 2001

SUPPORTING THE ECONOMY

which have been safeguarded by local planning authorities (see 8.5.4) indicating the industrial and commercial uses that would be acceptable;

- include policies on the scope for new economic development in and adjoining rural settlements, and identify suitable sites. In remote rural areas and smaller settlements a criteria based approach, as opposed to a site allocation approach, should be considered;
- include policies encouraging farm diversification and new rural development opportunities;
- provide criteria against which new buildings within farm complexes must be judged;
- include a policy or policies relating to the location of establishments where hazardous substances are used or stored and to the development of land within the vicinity of establishments where hazardous substances are present¹³;
- indicate general locations where further hazardous development may be acceptable, subject to adequate design and acceptable risk assessment, and set out criteria to control hazardous development and other development in the vicinity; and
- propose specific locations for those necessary industries which are detrimental to amenity and may be a source of pollution.

7.5.3 Local planning authorities should also consider producing Supplementary Planning Guidance on how farm diversification proposals are addressed in their area and the criteria that planning applications for farm diversification would be expected to meet.

7.6 Development control and the economy

7.6.1 The fact that a UDP has been subject to sustainability appraisal (see 3.3) does not take away the requirement for Environmental Impact Assessment of individual development proposals when they are required by legislation (see 3.3.2 to 3.3.7 and 4.3).

References

13 Town and Country Planning (Development Plan) Regulations 1991 (SI 1991/2794), Regulation 9, as amended by the Planning (Control of Major Accident Hazards) Regulations 1999 (SI 1999/981)

7.6.2 In determining planning applications for industrial and commercial uses, local planning authorities should have regard to :

- the impact of the development on the environment and local amenity (in terms of, for example, its scale and design, use of materials and natural resources, impact on landscape and wildlife, and its contribution to the generation of traffic and waste, noise and odour, emissions to air, water and soil, and its impacts on community safety and health);
- how significant environmental losses can be avoided, mitigated or compensated for;
- accessibility by a range of different transport modes;
- the possible need for, and scale of, transport and other infrastructure changes required to enable development to occur;
- proximity to, and compatibility (in terms of nature and scale) with, residential areas;
- compatibility with existing industrial and commercial activities;
- whether the intensification of industrial/commercial use is appropriate; and
- opportunities to encourage developments involving co-location deploying waste stream technology or practices, innovative business or technology clusters, and developments in the social economy.

7.6.3 Where applications are considered for **business development in primarily residential areas** particular care should be taken to safeguard residential amenity, especially where there is potential for noise and/or traffic disturbance. Planning conditions may be used to control, for example, times of operation in order to protect amenity.

7.6.4 **Occupancy conditions**, defining the categories of people or firms who may occupy the premises, should be imposed only when this can be justified on planning grounds and where the alternative would normally be to refuse permission. In most cases it would not be appropriate to impose such conditions on buildings of less than 300 square metres of office floorspace or 500 square metres of industrial floorspace. Occupancy conditions may not be imposed

SUPPORTING THE ECONOMY

which provide for a system of vetting by the local planning authority or the use of a vague test such as needing to be located in the area.

7.6.5 Unless **intensification** amounts to a material change in the character of use, it cannot be controlled if unconditional planning permission has been granted. Planning authorities should therefore consider the use of planning conditions or planning obligations on the initial permission to safeguard local amenity.

7.6.6 A flexible attitude is required with respect to change of use to enable suitable re-use or new use to be instituted in under-used space where this might contribute to the preservation of the building or enhancement of the townscape or landscape.

7.6.7 Local planning authorities should adopt a constructive approach towards **agricultural development proposals**, especially those which are designed to meet the needs of changing farming practices, or are necessary to achieve compliance with new environmental, hygiene or welfare legislation¹⁴.

7.6.8 **Agriculture and forestry permitted development rights**¹⁵ are granted to meet farming and forestry needs and not for purposes of diversification. They should not be abused, for example, to circumvent normal planning policies on new building in the open countryside. Local planning authorities should check the lawfulness of developments to be carried out under permitted development rights. New farm buildings must be sited on land which is in use for agriculture for the purposes of a trade or business, and must be reasonably necessary for the purposes of agriculture. They must be within an agricultural unit which is at least 5 hectares in area, as well as meeting other conditions governing the exercise of permitted development rights.

7.6.9 The **re-use and adaptation of existing rural buildings** has an important role in meeting the needs of rural areas for commercial and industrial development, as well as for tourism, sport and recreation. Local planning authorities should adopt a positive approach to the conversion of rural buildings for business re-use, especially those buildings located within or adjoining farm building complexes, provided that:

- they are suitable for the specific re-use;
- conversion does not lead to dispersal of activity on such a scale as to prejudice town and village vitality;

References

14 Technical Advice Note (Wales) 6, 'Agricultural and Rural Development', 2000

15 Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418) as amended, Schedule 2, Parts 6 and 7

- their form, bulk and general design are in keeping with their surroundings;
- imposing conditions on a planning permission overcomes any planning objections, for example on environmental or traffic grounds, which would otherwise outweigh the advantages of re-use;
- if the buildings are in the open countryside, they are capable of conversion without major or complete reconstruction;
- conversion does not result in unacceptable impacts upon the structure, form, character or setting where the building is of historic and/or architectural interest.

7.6.10 Residential conversion of rural buildings which have ceased to be used for industrial or commercial purposes, including agriculture, may have a minimal economic impact and may be detrimental to the fabric and character of historic buildings. Especially in areas where the creation of local employment is a priority, local planning authorities may include policies within the UDP which do not allow residential re-use unless:

- the applicant has made every reasonable attempt to secure suitable business re-use and the application is supported by a statement of the efforts which have been made; or
- residential conversion is a subordinate part of a scheme for business re-use; or
- the resulting housing will contribute to an identified need for affordable housing for local need (see 9.2.14).

7.6.11 If the existing building is unsuitable for conversion without extensive alteration, rebuilding or extension, or if the creation of a residential curtilage would have a harmful effect on the character of the countryside, similar control to that over new house building in the open countryside will apply (see 9.3.6).

CHAPTER 8 TRANSPORT

8.1 Objectives

8.1.1 The Assembly Government aims to extend choice in transport and secure accessibility in a way which supports sustainable development by encouraging the establishment of an integrated transport system which is safe, efficient, clean and fair^{1,2}. This will be achieved through integration:

- within and between different types of transport;
- between transport measures and land use planning;
- between transport measures and policies to protect and improve the environment; and
- between transport measures and policies for education, health, social inclusion and wealth creation.

For example, ensuring that development is accessible by means other than the private car will help in meeting the Assembly Government's objectives for social inclusion. Encouraging cycling and walking will contribute to the aim of improving the levels of health in Wales.

8.1.2 The Assembly Government's strategic plan, *Plan for Wales 2001*, commits it to developing an integrated, effective and accessible transport system that supports a growing economy³. Implementation of the Assembly Government's Transport Framework will help to achieve more integrated transport services. The Transport Framework will be linked to the Wales Spatial Plan and provide the context for Local Transport Plans (LTPs).

8.1.3 Land use planning can help to achieve the Assembly Government's objectives for transport through:

- reducing the need to travel, especially by private car, by locating development where there is good access by public transport, walking and cycling;
- locating development near other related uses to encourage multi-purpose trips and reduce the length of journeys;
- improving accessibility by walking, cycling and public transport;

References

1 'A New Deal for Transport: Better for Everyone', ch 3950, DETR, Welsh Office, Scottish Office, DENI 1998

2 'Transporting Wales into the Future', Welsh Transport Policy Statement, Welsh Office 1998

3 'Plan for Wales 2001', the Government of the National Assembly for Wales, 2001

- ensuring that transport is accessible to all, taking into account the needs of disabled and other less mobile people;
- promoting walking and cycling;
- supporting the provision of high quality public transport;
- supporting traffic management measures;
- promoting sustainable transport options for freight and commerce;
- supporting sustainable travel options in rural areas;
- supporting necessary infrastructure improvements; and
- ensuring that, as far as possible, transport infrastructure does not contribute to land take, urban sprawl or neighbourhood severance.

8.1.4 UDP strategies and policies need to be consistent and integrated with the strategies and policies contained in LTPs, Road Traffic Reduction Reports and Air Quality Management Plans. Each local authority must prepare a LTP that includes a review of existing transport provision and sets out its proposals for the co-ordination and improvement of all transport modes, future investment priorities and the implementation of specific measures⁴. Any LTP proposal that directly involves the development or use of land, or has land use implications, should appear as a policy or proposal in the UDP.

8.1.5 Local authorities should ensure that when planning new infrastructure, including roads, their approach is compatible with the New Approach To Appraisal (NATA). They should ensure that the full range of possible solutions, including solutions other than road enhancement, is considered.

8.1.6 The Road Traffic Reduction Act 1997 requires local authorities to produce a report setting out an assessment of the traffic on the roads for which it is the local highway authority and a forecast of expected growth in traffic levels^{5, 6}. The report should also contain targets for reducing levels of local road traffic or the rate of growth of those levels. UDP policies should be consistent with the approach adopted to fulfil these obligations and any national targets set by the Assembly under the Road Traffic Reduction (National Targets) Act 1998.

References

4 'Guidance on Local Transport Plans in Wales', National Assembly for Wales, 1999

5 Road Traffic Reduction Act, 1997

6 'Road Traffic Reduction Act 1997: Draft Guidance to Welsh Local Authorities', Welsh Office, 1997

TRANSPORT

8.1.7 Transport emissions contribute significantly to climate change and poor local air quality, which can in turn affect people's health. The Environment Act 1995 requires local authorities to review and assess air quality in their areas to determine whether air quality objectives are likely to be met⁷. Where it is found that air quality objectives are unlikely to be met an Air Quality Management Area must be declared and an action plan developed^{8,9,10}. UDP policies and decisions on planning applications should take into account statutory air quality objectives, together with the results of air quality reviews and assessments and any Air Quality Management Plans or Area Action Plans (see 13.10.3 and 13.10.4).

8.2 Promoting walking and cycling

8.2.1 Walking should be promoted for shorter trips. The impact of policies and development on pedestrians should be considered. Planning authorities should promote specific measures to assist pedestrians including the provision of safe, convenient and well-signed routes.

8.2.2 Cycling should also be encouraged for short trips and as a substitute for shorter car journeys or as part of a longer journey when combined with public transport. The National Cycling Strategy set a target to double (based on 1996 figures) the number of cycle trips by 2002, and double them again by 2012¹¹. Local authorities should encourage the implementation of specific measures to develop safe cycling, including new or improved routes and secure parking and changing facilities in major developments and at transport interchanges. Where appropriate, planning authorities should also seek to assist the completion of the national cycle network and key links to and from the network.

8.3 Supporting public transport

8.3.1 Local authorities should promote public transport as a means to achieve environmental objectives, to assist in relieving congestion and to encourage social inclusion. Collaborative working by regional groups of local authorities and the establishment of cross boundary transport consortia are assisting this process. Appropriate public transport measures include improved facilities for railway and bus passengers, park and ride schemes, and measures to encourage better services. Local authorities may wish to explore the potential for new rail lines (including light rail), the re-opening of rail lines, the provision of new stations and enhanced passenger services on existing lines. Rail services, with their fixed infrastructure, can

References

7 Environment Act 1995, Section IV, Air Quality

8 'The Air Quality Strategy for England, Scotland, Wales and Northern Ireland: working together for clean air', DETR, HMSO, 2000

9 'Air Quality and Land Use Planning' LAQM.G4(00), DETR / National Assembly for Wales, 2000

10 Air Quality (Wales) Regulations 2000 (SI 2000/1940), HMSO 2000

11 'National Cycling Strategy', DETR, 1996

provide a focus for regeneration and new development, as can bus services, especially in urban areas where supporting facilities and priority schemes, such as bus lanes, are provided.

8.3.2 The ease of **interchange between transport modes and personal safety** are important determinants of public transport use. Local authorities should safeguard existing public transport interchanges from development that would compromise their continued use. Near major public transport interchanges in city, town and district centres, planning authorities should allocate available sites for uses that maximise the accessibility potential of the site, including high density residential development, employment, shopping and leisure uses. Local authorities should identify in UDPs and LTPs the need for additional interchange sites and improvements to existing interchanges, including measures to promote personal safety. In rural areas interchange sites should be identified at nodes where the transfer between local and long distance public transport services can take place.

8.3.3 **Park-and-ride** should normally be considered as one element of a comprehensive planning and transport strategy designed to improve the relative attractiveness of public transport and reduce the overall dependence on cars. Where the LTP has identified a requirement for park and ride facilities, planning authorities should identify suitable sites in the UDP.

8.3.4 Local authority support for bus services, passenger rail services or proposals for associated facilities should be consistent with locational policies¹². Where additional public transport would be required to allow development to proceed, an appropriate policy should be included in the UDP and LTP. Where development can only take place with improvements to public transport services, local authorities should consider the use of planning conditions and/or planning obligations.

8.4 Managing traffic and parking

8.4.1 Local authorities should adopt an integrated approach to traffic management. They should consider how different measures can complement one another and contribute to the achievement of wider planning and transport objectives, taking into account the needs of the disabled and less mobile sections of the community. Within town centres priority should be given to walking, cycling, public transport and delivery vehicles through the reallocation of road space. In established urban and rural neighbourhoods traffic

References

12 'From Workhorse to Thoroughbred: A Better Role for Bus Travel', DETR, 1999

TRANSPORT

management measures should be adopted to improve the street environment and promote road safety, whilst in areas of new development traffic calming measures should be incorporated from the outset. In appropriate areas local authorities should consider using powers available under the Transport Act 2000 to designate **Home Zones**. In rural areas traffic management measures should be sympathetic to the character of the area whilst achieving reduced traffic speed, and environmental and safety improvements¹³.

8.4.2 **Car parking provision** is a major influence on the choice of means of transport and the pattern of development. Local authorities should ensure that new developments provide lower levels of parking than have generally been achieved in the past. Minimum parking standards are no longer appropriate. Local authorities should develop an integrated strategy on parking to support the overall transport and locational policies of the UDP.

8.4.3 Local authorities should consider parking issues on a joint basis with neighbouring authorities, utilising existing collaborative bodies such as regional planning fora or transport consortia. They should jointly establish maximum levels of parking for broad classes of development, together with a threshold size of development above which such levels will apply. These maximum standards should be set in collaboration with interested organisations. Local authority groupings will need to ensure that their parking standards reflect local transport provision, are adopted by individual authorities as supplementary planning guidance, and are kept under review. The Assembly Government will investigate mechanisms to endorse maximum parking standards prepared by local authority groupings.

8.4.4 As part of the overall approach to parking, local authorities should gear their charging policies for on-street parking and off-street parking where it is under their control to complement their land use policies. This may mean rebalancing their charging and traffic management regimes to encourage short-term parking for retail users and to discourage all day parking by commuters.

8.4.5 Private non-residential parking is also an important component of parking provision in town centres. Authorities should, where appropriate, seek to encourage appropriate redevelopment or re-use of existing private parking sites to bring the provision down to revised standards, and refuse planning permission for public and private car parks which do not meet the strategic aims of the UDP and LTP.

References

13 Technical Advice Note (Wales) 18, 'Transport', 1998

8.4.6 The Transport Act 2000 includes measures that would allow the introduction of **road user charging** and/or a **workplace parking levy**. Whilst the opportunities for road user charging are likely to be limited in Wales, a workplace parking levy could be desirable to facilitate, either directly or indirectly, the achievement of LTP policies. Local authorities will need to consider carefully how road user charging and a workplace parking levy would fit alongside UDP policies and the approaches of neighbouring authorities. Such measures could increase pressure for the dispersal of development away from charged areas. For this reason, schemes must be designed and implemented in ways that support the vitality of town and city centres and that do not result in the dispersal of development.

8.5 Planning for roads, railways, airports, ports and inland waterways

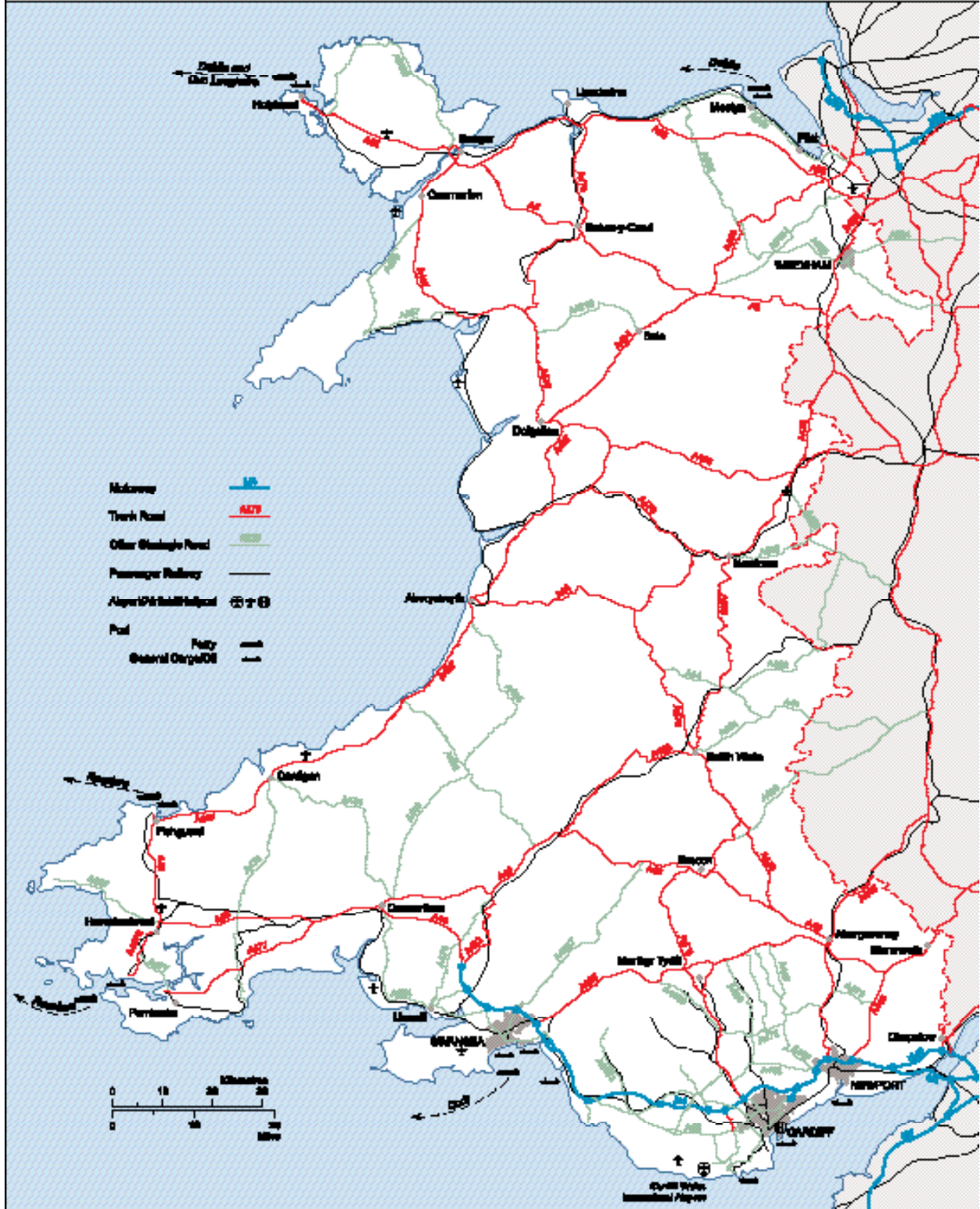
8.5.1 Local authorities should utilise available powers to **reduce the need to use trunk roads and other through routes for short, local journeys**. UDPs should specify the primary road network, including trunk roads, and separately identify the core network¹⁴. These routes should be identified as corridors for movement adjacent to which development that would compromise this role will be resisted. UDPs should include all proposals for new roads and major improvements to the primary road network over the plan period, and beyond where known, and set out the broad policy on priorities for minor improvements. For local road schemes the UDP procedures should normally provide the means to examine both the need for and the alignment of the route.

8.5.2 UDPs should also include policies and proposals relating to the development of other transport infrastructure and related services (such as public transport interchange facilities, rail facilities, harbours and airports) including safeguarding zones. Where local planning authorities wish to safeguard land for transport infrastructure, including schemes identified in the LTP, they should do so through a proposal in the UDP, where possible showing the precise route of the proposed new or improved infrastructure. When the precise route is not known, a safeguarding policy may be applied to the area of land necessary for the scheme. Blight should be kept to a minimum by including in UDPs only firm schemes on which work will commence within the plan period. When UDPs are prepared or amended, existing transport proposals should be reviewed, so as to remove any proposals that have previously been safeguarded but are now abandoned or any that are unlikely to commence during the plan period.

References

14 'Driving Wales Forward - A Strategic Review of the Welsh Trunk Roads Programme', Welsh Office, 1988

Map 8.1 Transport Infrastructure



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Based on the Ordnance Survey map

Data: Ordnance Survey, Welsh Assembly Government

8.5.3 The strategic significance of **freight** access to industry and commerce should be taken into consideration by planning authorities¹⁵. Wherever possible they should promote the carriage of freight by rail, water or pipeline rather than by road. Local authorities should consider which routes are most suitable for use by road freight and encourage the location or relocation of distribution and operating centres to sites which have good access to these routes. The same applies to other developments generating frequent road freight movements. Wherever possible, new facilities should be located adjacent to railways and/or ports to promote modal transfer.

8.5.4 Local authorities should **consider the potential for promoting the use of railways for additional passenger and freight traffic**. They should identify new infrastructure (including park and ride sites), multi-modal transfer facilities and, where appropriate, major employment sites with access to railways. Disused railways and disused or unused rail sidings should be safeguarded from development where there is a realistic prospect for their use for transport purposes in the future. As an interim measure it may be appropriate to use disused rail alignments as open space corridors (greenways) for example for walking and cycling.

8.5.5 Developments at **airports** may provide improved facilities and bring economic benefits, but they may also give rise to environmental and other concerns that need to be taken into account. Airports can be major generators of movement. Any development proposal therefore needs careful consideration as to the extent to which it is related to the operation of the airport and is sustainable, given the existing and planned levels of public transport and the need to prevent urban sprawl. Related issues of noise, pollution and community safety also need to be taken into account.

8.5.6 Planning authorities should seek to **promote the use of ports and inland waterways** by the protection or provision of access to them¹⁶ and by the retention or provision of appropriate wharf, dock, harbour and rail transfer facilities. The provision of these facilities needs to be weighed against environmental considerations, such as the loss or erosion of estuarine habitats. Inland waterways in Wales are principally used for recreation purposes^{17, 18}.

8.5.7 Great care must be taken to minimise the adverse impacts of new transport infrastructure, or improvements to existing infrastructure, on the natural, historic and built environment and on

References

15 'Sustainable Distribution: A Strategy', DETR, 1999

16 'British Shipping Charting a New Course', DETR 1998

17 Technical Advice Note (Wales) 14, 'Coastal Planning', 1998

18 'Waterways for Tomorrow', DETR, 2000

TRANSPORT

local communities, where neighbourhood severance should especially be avoided. Routes should make the best use of existing landforms and other landscape features to reduce noise and visual effects, subject to safety and other environmental considerations^{19, 20, 21}. Where no other alternative routes or options are practicable, transport infrastructure schemes should provide mitigation measures to minimise the impacts caused by their construction and operation.

8.6 UDPs and transport

8.6.1 UDPs provide the main means for achieving integration between land use and transport. They must provide an explanation of the authority's transport aims and the way in which the transport policies support the other objectives of the plan. UDPs should provide the means for:

- examining the relationship between transport and land use planning;
- promoting the integration and co-ordination of transport and land use planning; and
- promoting strategies to reduce the need to travel.

8.6.2 Part 1 of the UDP must:

- set out the land use/transportation strategy, addressing accessibility and the provision of strategic and integrated transport facilities, including roads, railways and interchanges.

8.6.3 Part 2 of the UDP should:

- ensure that new housing, jobs, shopping, leisure and services are highly accessible by public transport, walking and cycling;
- locate major generators of travel demand within existing urban areas, or in other locations that can be well served by public transport, walking or cycling;
- encourage higher density and mixed-use development near public transport nodes, or near corridors well served by public transport;

References

19 'Roads in Upland Areas', Welsh Office, 1990

20 'Roads in Lowland Areas', Welsh Office, 1994

21 Technical Advice Note (Wales) 11, 'Noise', 1997

References

- ensure that development sites which are highly accessible to non-car modes are used for travel intensive uses, reallocating their use if necessary;
- in rural areas, designate local service centres, or clusters of settlements where a sustainable functional linkage can be demonstrated, as the preferred locations for new development;
- include specific measures to promote walking and cycling;
- set out policies to promote the use of public transport including new and improved interchange facilities and, where appropriate, park-and-ride schemes;
- include appropriate traffic management policies;
- identify the primary road network, including trunk roads, and separately identify the core network;
- identify proposals for new roads and major improvements to the primary route network and the broad policy on priorities for minor improvements;
- include policies and proposals relating to the development of transport infrastructure other than roads;
- identify, and where appropriate protect, routes required for the sustainable movement of freight;
- protect disused transport infrastructure, including railways, rail sidings, ports, harbours and inland waterways from development that would compromise their future transport use, where re-use is a possibility; and
- minimise the adverse impacts of transport infrastructure projects on the natural, historic and built environment and on local communities.

8.7 Development control and transport

8.7.1 When determining a planning application for development that has transport implications, local planning authorities should take into account:

TRANSPORT

- the impacts of the proposed development on travel demand;
- the level and nature of public transport provision;
- accessibility by a range of different transport modes;
- the willingness of a developer to promote travel by public transport, walking or cycling, or to provide infrastructure or measures to manage traffic, to overcome transport objections to the proposed development (payment for such measures will not, however, justify granting planning permission to a development for which it would not otherwise be granted);
- the environmental impact of both transport infrastructure and the traffic generated; and
- the effects on the safety and convenience of other users of the transport network.

8.7.2 **Transport Assessments** should be conducted for major developments to appraise travel demand and impact. They can also provide the basis for negotiation on scheme details, including the level of parking, and measures to improve public transport access, walking and cycling. Transport Assessments also provide an important basis for the preparation of **Travel Plans**²².

8.7.3 The proposed access to a development should reflect the likely travel patterns involved. It should ensure that people can reach the development, as far as practicable, by walking, cycling and public transport, as well as by car. Large-scale development proposals may merit special traffic measures or road works to cater for them in the existing network. They may also require other works within the overall transport network, for example new rail infrastructure. Where transport improvements will be needed to enable the proposal to go ahead, these should normally be provided first.

8.7.4 Direct access to a motorway or motorway slip road would not be acceptable other than to a motorway service area approved by the Assembly. Direct access from new development on to a primary route should be avoided where possible. Where feasible, access should be on to a secondary route. At any location, traffic flow and

References

22 Technical Advice Note (Wales) 18, 'Transport', 1998

safety can be assisted by good junction design. The number of accesses permitted will depend upon the type and nature of the road. Similarly, the type of access provided should reflect the type of road and the volume and character of traffic likely to use the access and the road.^{23,24}

8.7.5 Where necessary, planning conditions may legitimately be imposed on the grant of planning permission to secure on-site transport measures and facilities as part of the proposed development. Planning obligations may also be used in appropriate circumstances to secure off-site improvements in public transport, walking and cycling, where such measures would be likely to influence travel patterns to the site involved.

References

23 Design Bulletin 32, 'Residential Roads and Footpaths - layout considerations', DOE/ DOT, HMSO, 1992

24 'Places, Streets and Movement - A Companion Guide to Design Bulletin 32', DETR, 1998

CHAPTER 9 HOUSING

9.1 Objectives

9.1.1 The Assembly Government's vision for housing is for everyone in Wales to have the opportunity to live in good quality, affordable housing, to be able to choose where they live and decide whether buying or renting is best for them and their families^{1,2}. The objectives are to provide:

- homes that are in good condition, in safe neighbourhoods and sustainable communities; and
- greater choice for people over the type of housing and the location they live in, recognising the needs of all, including those in need of affordable or special needs housing in both urban and rural areas.

The Assembly Government will seek to ensure that:

- previously developed land (see definition at Figure 2.1) is used in preference to greenfield sites;
- new housing and residential environments are well designed³, environmentally sound (especially energy efficient) and make a significant contribution to promoting community regeneration and improving the quality of life; and that
- the overall result of new housing development in villages, towns or edge of settlement is a mix of social and market housing that retains and, where practical, enhances important landscape and wildlife features in the development.

9.1.2 Local planning authorities should promote sustainable residential environments, avoid large housing areas of monotonous character and make appropriate provision for affordable housing. They should promote:

- mixed tenure communities;
- development that is easily accessible by public transport, cycling and walking;
- mixed use development so communities have good access to employment and services;

References

1 'Better Homes for People in Wales – A National Housing Strategy for Wales', National Assembly for Wales, 2001

2 'Communities First: Guidance', National Assembly for Wales, 2001

3 'Better Places to Live by Design: A Companion Guide to PPG3', DTLR, 2001

- attractive landscapes around dwellings, with usable open space and regard for biodiversity and nature conservation;
- greater emphasis on quality and designing places for people;
- the most efficient use of land;
- well designed living environments, where appropriate at increased densities;
- construction of housing with low environmental impact that especially maximises energy efficiency and minimises the use of energy from fossil fuel sources, using renewable energy technology where appropriate; and
- ‘barrier free’ housing developments, for example built to Lifetime Homes standards⁴.

9.1.3 Planning policies and decisions, including the provision of adequate land, have an important role to play in the preparation of local housing strategies. Local authorities should adopt a corporate approach, involving housing and planning committees, in preparing and co-ordinating UDPs and local housing strategies. In preparing UDPs it is important that the relevant local housing strategy is given full consideration so that planning policies and decisions are compatible with the housing strategy objectives. Where the local planning authority is a National Park Authority it should liaise closely with the housing departments and committees of the local authorities of which the National Park is part.

9.1.4 Local planning authorities and house-builders are encouraged to work together constructively to identify housing land in the most appropriate locations for development.⁵

9.2 UDPs and new housing provision

9.2.1 In producing their UDPs, local planning authorities should devise a **settlement strategy** which establishes housing policies in line with their local housing strategy and a spatial pattern of housing development balancing social, economic and environmental needs. The settlement strategy will be informed by a sustainability appraisal and should be fully justified. It should also be compatible with other policies such as those for transport and other infrastructure provision. Local planning authorities should use a criteria-based approach in developing their settlement strategy.

References

4 The ‘Lifetime Homes’ concept that is promoted by the Joseph Rowntree Foundation comprises 16 major standards that aim to provide homes which are flexible and can cater for people with a wide range of disabilities.

5 ‘Working Together: A Guide for Planners and Housing Providers’, RTPI, 2001

HOUSING

9.2.2 In planning the provision for new housing, local planning authorities must take account of the following:

- the Assembly Government's latest household projections;
- local housing strategies;
- local housing requirement assessments (needs and demands)⁶;
- the needs of the local and national economy;
- social considerations (including unmet need);
- the capacity of an area in terms of social, environmental and cultural factors (including consideration of the Welsh language) to accommodate more housing;
- the environmental implications, including energy consumption and greenhouse gas emissions; and
- the capacity of the existing or planned infrastructure.

9.2.3 The latest Assembly Government household projections should form the starting point for **assessing housing needs**. Where local planning authorities seek to deviate from these projections, by using their own policy-based projections, they must justify the reasons for so doing and explain the rationale behind their own preferred projections.

9.2.4 Each local planning authority must justify its housing requirement and show how this requirement has been derived in terms of the issues listed above. In estimating housing requirements local planning authorities are strongly encouraged to integrate the provisions of their local housing strategies with the relevant provisions of their UDPs. Effective monitoring of these issues is essential in order to ensure that there is an adequate and continuing supply of land and buildings for housing and to enable their managed release.

9.2.5 Local planning authorities should **ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing** judged against the general objectives and the scale and location of development provided for in the UDP. This means that sites must be free, or readily freed, from planning, physical and ownership constraints, and capable of being developed

References

6 'Local Housing Needs Assessment: A Good Practice Guide', Welsh Office, 1999

economically, creating and supporting sustainable communities where people want to live, and that there must be sites suitable for the full range of housing types. Although much of this provision is likely to meet local needs, land allocated in UDPs as housing land should be available to all applicants. For land to be regarded as genuinely available it must be a site included in a Joint Housing Land Availability Study.⁷ The Assembly Government will monitor UDPs and their implementation to ensure that sufficient housing land is brought forward for development in each unitary authority and that economic development and related job opportunities are not unreasonably constrained.

9.2.6 Local planning authorities should **address the scope and potential for rehabilitation, conversion, clearance and redevelopment** when considering suitable sites for housing development. Maximising the use of appropriate previously developed land for housing development can assist regeneration and at the same time relieve pressure for development on greenfield sites. In particular, local authorities should consider the contribution that reclaimable or reclaimed urban land and disused or underused buildings can make to the overall provision of land for housing.

9.2.7 In identifying sites to be allocated for housing in UDPs, local planning authorities should follow a **search sequence**, starting with the re-use of previously developed land and buildings within settlements, then settlement extensions and then new development around settlements with good public transport links. They should seek only to identify sufficient land to meet their housing requirement.

9.2.8 Local planning authorities should consider the following **criteria in deciding which sites to allocate for housing** in their UDPs:

- the availability of previously developed sites and empty or under-used buildings and their suitability for housing use;
- the location and accessibility of potential development sites to jobs, shops and services by modes other than the car, and the potential for improving such accessibility;
- the capacity of existing and potential infrastructure, including public transport, water and sewerage, other utilities and social infrastructure (such as schools and hospitals) to absorb further development and the cost of adding further infrastructure;

References

⁷ Technical Advice Note (Wales) 1, 'Joint Housing Land Availability Studies', 1997

HOUSING

- the ability to build communities to support new physical and social infrastructure, including consideration of the effect on the Welsh language (see 2.10.1 to 2.10.3), and to provide sufficient demand to sustain appropriate local services and facilities; and
- the physical and environmental constraints on development of land, including, for example, the level of contamination, stability and flood risk, taking into account that such risk may increase as a result of climate change, and the location of fragile habitats and species, archaeological and historic sites and landscapes.

9.2.9 In determining the order in which sites identified in accordance with paragraph 9.2.8 above should be allocated, the presumption will be that previously developed sites or buildings for re-use or conversion should be allocated before greenfield sites. The exception to this principle will be where previously developed sites perform so poorly in relation to the criteria listed in paragraph 9.2.8 as to preclude their use for housing (within the relevant plan period or phase) before a particular greenfield site.

9.2.10 Policies which seek to make maximum use of vacant urban land for housing will need to distinguish between sites which need to be retained for recreation, amenity or nature conservation purposes, and areas which are genuinely suitable for housing development. Where substantial new housing is to be permitted, plans should include policies to make clear that developers will be expected to provide open space which is reasonably related in scale and location to the development.

9.2.11 Policies will be needed to cover the physical scale and design of new buildings, access, density, and off-street parking, taking account of particular residential areas and of changing needs. Strong pressure for development may give rise to inappropriately high densities if not carefully controlled. Higher densities should be encouraged on easily accessible sites, where appropriate, but these will need to be carefully designed to ensure a high quality environment. In particular, local planning authorities should adopt a flexible approach to car parking standards.

9.2.12 Sensitive design and good landscaping are particularly important if new buildings are to be fitted successfully into small vacant sites in established residential areas. 'Tandem' development,

References

consisting of one house immediately behind another and sharing the same access, may cause difficulties of access to the house at the back and disturbance and lack of privacy to the house in front and should be avoided.

9.2.13 Any proposals for **new settlements** should be promoted through, and fully justified in, the UDP. Plans should state clearly the contribution which developers will be expected to make towards provision of infrastructure, community facilities and affordable housing. New settlements on greenfield sites are unlikely to be appropriate in Wales, and should only be proposed where such development would offer significant environmental, social and economic advantages over the further expansion or regeneration of existing settlements.

9.2.14 A community's need for **affordable housing**⁸ is a material planning consideration which may properly be taken into account in formulating UDP policies. It is also an essential element in contributing to community regeneration and strengthening social inclusion. It may be desirable in planning terms that new housing development in both rural and urban areas should incorporate a reasonable mix and balance of house types and size to cater for a range of housing needs. Local authorities should ensure that planning policies for affordable housing are in line with the strategic planning objectives of the UDP. This may make it easier for the developer to provide affordable housing. Sites no longer likely to be needed for office or industrial purposes may be appropriate locations for affordable housing (as well as for general market housing).

9.2.15 Where local planning authorities have demonstrated the need for affordable housing, by undertaking a recent local housing needs assessment survey as recommended in the Assembly Government's guidance⁹ or by the use of other reliable and robust data sources, such as the housing registers of local authorities and registered social landlords, they should include policies for affordable housing in their UDP for the areas where need has been identified. Targets for specific sites may be set if based on evidence of need and site suitability, but a uniform quota should not be imposed on development regardless of market or site conditions. Policies must indicate that an authority will seek to negotiate with developers where it is intended to include an element of affordable housing in proposed developments. Policies should also state what the authority would regard as affordable housing and what

References

8 Technical Advice Note (Wales) 2, 'Planning and Affordable Housing', 1996

9 'Local Housing Needs Assessment: A Good Practice Guide', Welsh Office, 1999

HOUSING

arrangements it would expect to ensure that such housing remains reserved for those who need it.

References

9.2.16 **Residential mobile homes** can make a valuable contribution to overall housing provision and have a part to play in providing low cost accommodation for small households. Local planning authorities should consult the park homes industry about the provision of appropriate sites.

9.2.17 Local authorities must indicate the regard they have had to meeting **the accommodation needs of gypsy families**. It is important that local planning authorities have policies for the provision of gypsy sites in their UDPs. In drawing up policies local planning authorities should consult with providers of social housing, representatives of gypsies and travellers and landowners in areas likely to be appropriate for gypsy sites.

9.2.18 In planning for **housing in rural areas** it is important to recognise that development in the countryside should embody sustainability principles, benefiting the rural economy and local communities while maintaining and enhancing the environment. There should be a choice of housing, recognising the housing needs of all, including those in need of affordable or special needs provision. In order to safeguard the character and appearance of the countryside, to reduce the need to travel by car and to economise on the provision of services, new houses in the countryside away from existing settlements recognised in UDPs, or from other areas allocated for development, must be strictly controlled. Many parts of the countryside have isolated groups of dwellings. Sensitive filling in of small gaps, or minor extensions to such groups, may be acceptable, but much depends upon the character of the surroundings, the pattern of development in the area and the accessibility to main towns and villages.

9.2.19 The special provision of **rural exception sites** may be considered to help ensure the viability of the local community. Local planning authorities should refer to their up to date local housing needs assessment survey, or other recent, reliable and robust evidence, to support policies. Policies should make clear that the release of small housing sites, within or adjoining existing villages, for the provision of affordable housing to meet local needs, which would not otherwise be allocated in the UDP, is an exception to the policies for general housing provision and must be fully justified,

setting out the type of need and the kind of development falling within the terms of the policy. Sites must meet all the other criteria against which a housing development would be judged.

9.2.20 Part 1 of the UDP must:

- set out a settlement strategy; and
- quantify its housing requirements.

9.2.21 Part 2 of the UDP should:

- make allocation of housing land on the basis of the search sequence specified in 9.2.7 and the criteria in 9.2.8;
- include clear policy criteria against which applications for development of unallocated sites will be considered;
- specify the circumstances in which previously developed sites would be deemed to perform so poorly that their use would not be favoured before that of a (particular) greenfield site;
- include clear development control policies to guide the determination of applications, including guidance on design, access, density, off-street parking and open space provision for particular areas as appropriate;
- specify mechanisms to be used to monitor the take up of housing land;
- include policies for affordable housing in areas where need has been identified, including any rural areas where exception sites will be considered;
- include a policy to resist new housing in the countryside away from existing settlements or other areas allocated for development; and
- include policies to indicate where developer contributions will be expected toward infrastructure, community facilities and affordable housing.

9.3 Development control and housing

9.3.1 New housing developments should be well integrated with and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and retail development and with community facilities.

9.3.2 Sensitive **infilling** of small gaps within small groups of houses, or minor extensions to groups, may be acceptable, though much will depend upon the character of the surroundings and the number of such groups in the area. Significant incremental expansion of housing in villages and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where travel needs are unlikely to be well served by public transport. Residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use.

9.3.3 Insensitive infilling or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character and amenity. This includes any such impact on neighbouring dwellings, such as serious loss of privacy or overshadowing.

9.3.4 In determining applications for new housing, local planning authorities should ensure that the proposed development does not damage an area's character and amenity. Increases in density help to conserve land resources, and good design can overcome adverse effects, but where high densities are proposed the amenity of the scheme and surrounding property should be carefully considered. High quality design and landscaping standards are particularly important to enable high density developments to fit into existing residential areas.

9.3.5 Where UDP policies make clear that an element of affordable housing, or other developer contributions, are required on specific sites, this will be a material consideration in determining relevant applications.

References

9.3.6 New house building and other new development in the open countryside, away from established settlements, should be strictly controlled. The fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area. Isolated new houses in the open countryside require special justification, for example, where they are essential to enable farm or forestry workers to live at or close to their place of work in the absence of nearby accommodation. Agricultural needs cannot justify the provision of new dwellings as retirement homes for farmers (see 7.3.3, 7.6.8 to 7.6.11).

9.3.7 The following, in particular, should be considered when determining planning applications for **agricultural and forestry dwellings**¹⁰:

- a functional test to establish whether, for the proper functioning of the enterprise (in terms of both its current and likely future requirements), one or more workers needs to be readily available at most times; and
- a financial test to establish that the farming enterprise is economically viable, since if it is not, new permanent accommodation cannot be justified on agricultural grounds, and to provide evidence of the size of dwelling which the unit can sustain.

9.3.8 It is important to establish that stated intentions to engage in agriculture or forestry are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period. If it is considered that a new dwelling will be essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, but the case is not completely proven, the dwelling should normally for the first three years be a caravan, or a wooden structure which can be easily dismantled, or other temporary accommodation. Temporary agricultural dwellings should satisfy normal planning requirements, for example on site and access, and will have to be removed at the end of the period for which the permission was granted. Local planning authorities should not grant temporary planning permissions in locations where they would not permit a permanent dwelling.

10 Technical Advice Note (Wales) 6, 'Agricultural and Rural Development', 2000

HOUSING

9.3.9 Where the need to provide accommodation to enable farm or forestry workers to live at or near their place of work has been accepted as justifying isolated residential development in the open countryside, it will be necessary to ensure that the dwellings are kept available for this need. For this reason planning permission should be granted subject to an occupancy condition.

9.3.10 Applications for agriculture and forestry dwellings will only be permitted if special justification is given to meet the functional and financial tests, and an occupancy condition applied.

References

CHAPTER 10 PLANNING FOR RETAILING AND TOWN CENTRES

References

10.1 Objectives

10.1.1 The Assembly Government's objectives for retailing and town centres are to :

- secure accessible, efficient, competitive and innovative retail provision for all the communities of Wales, in both urban and rural areas;
- promote town, district, local and village centres as the most appropriate locations for retailing and for functions complementary to it;
- enhance the vitality, attractiveness and viability of town, district, local and village centres; and to
- promote access to these centres by public transport, walking and cycling.

10.1.2 Wherever possible retail provision should be located in proximity to other commercial businesses, facilities for leisure, community facilities and employment. Town, district, local and village centres are the best locations for such provision at an appropriate scale. Such co-location of retail and other services in existing centres, with enhancement of access by walking, cycling and public transport, to provide the opportunity to use means of transport other than the car, will provide the greatest benefit to communities. This complementary mix of uses should also sustain and enhance the vitality, attractiveness and viability of those centres as well as contributing to a reduction of travel demand.

10.1.3 Vitality is reflected in how busy a centre is at different times and in different parts, attractiveness in the facilities and character which draw in trade. Viability, on the other hand, refers to the ability of the centre to attract investment, not only to maintain the fabric, but also to allow for improvement and adaptation to changing needs¹.

10.1.4 Corner shops in urban areas, village shops in rural areas, as well as public houses and other individual outlets with a retail function which are not part of established centres, can play a vital economic and social role and their loss can be damaging to a local community. Their role needs to be taken into account in preparing

¹ 'Vital and Viable Town Centres : Meeting the Challenge', Urban and Economic Development Group for DoE, HMSO, 1994

UDPs and in development control, bearing in mind also the policies for diversification of the local economy set out in 2.3 and in Chapter 7.

References

10.2 UDPs and retailing and town centres

10.2.1 Local planning authorities should develop through their UDPs a clear strategy and policies for retail development, and for the future of town, district, local and village centres in their area, which promote a successful retailing sector supporting existing communities and centres. These plans should identify the existing hierarchy of centres, including those which fulfil specialist roles. They should identify changing pressures and opportunities and devise appropriate responses to them. In some situations it may be necessary to manage the decline in relative importance of a centre as other centres expand. Dealing with change may mean redefining the boundaries of centres or identifying acceptable changes of use.

10.2.2 **New regional shopping centres**, with more than 50,000 square metres of gross floor space, can have a substantial impact over a wide area and severely harm the nearest major centres. Although there may be circumstances where they could fulfil an important retail need, full account needs to be taken of all likely impacts and it is unlikely that opportunities exist for such a centre in Wales at present.

Support for existing centres

10.2.3 In developing policies to revitalise and increase the attractiveness of existing centres, local planning authorities should consult the private sector and local communities and should pay particular attention to the character of historic towns and conservation areas.

10.2.4 Although retailing should continue to underpin town, district, local and village centres it is only one of the factors which contribute towards their well-being. Policies should encourage a **diversity of uses in centres**. Mixed use developments, for example, combining retailing with entertainment, restaurants and housing should be encouraged to promote lively centres as well as reducing the need to travel to visit a range of facilities. Leisure uses can benefit town and district centres and, with adequate attention to safeguarding amenities, can contribute to a successful evening economy.

10.2.5 In existing centres, the restoration of redundant buildings which are worthy of retention can make them suitable for re-use for a variety of retailing, commercial, entertainment, cultural or residential purposes.

10.2.6 Good access to, and convenient movement within, town centres are essential. UDPs should, in particular, **encourage the provision of good access to town and other centres for walkers, cyclists and for public transport**, including bus priority measures and public transport facilities. They should also encourage easy access to and within centres, and appropriate facilities, for people with limited mobility. Access for delivery vehicles should be provided for so as to assist the efficient functioning of centres. Access by car and short-term parking can also help centres compete with existing out of centre locations, but should be managed to minimise congestion, pollution and parking problems which would otherwise reduce the convenience, attractiveness or competitiveness of these centres.

10.2.7 UDPs may **distinguish between primary and secondary frontages in town centres** and consider their relative importance to the character of the centre. Primary frontages are characterised by a high proportion of retail uses, while secondary frontages are areas of mixed commercial development including, for example, restaurants, banks and other financial institutions. Banks and other financial institutions provide important services and local planning authorities should encourage their retention in town centres. This may include the upgrading of premises and the installation of new customer services. However, such uses should not be allowed to dominate primary shopping areas in a way that can undermine the retail function.

10.2.8 Policies and supplementary planning guidance should **support management of town centres** and, where appropriate, of smaller centres. Such management, involving enhancement and promotion, can be an important factor in achieving vitality, attractiveness and viability of town, district, local and village centres. Appropriate management measures can also contribute to achieving a safe and crime free environment. Partnership between local authorities and the private sector is essential to the success of such management².

Identifying new sites – the sequential approach

10.2.9 Local planning authorities should consider through their UDPs whether new sites should be identified in town, district, local or village centres for retail development, leisure development or

² Technical Advice Note (Wales) 4, 'Retailing and Town Centres', 1996

other **uses best located in centres**. Uses which need to be accessible to a large number of people, including retailing, major leisure uses (such as theatres, multi-screen cinemas, bingo halls and bowling alleys), offices of central and local government, commercial offices, hospitals and tertiary education facilities are preferably to be located in town centres. Smaller scale retail provision, including appropriately sized supermarkets, leisure facilities, and other facilities such as local health centres, branch libraries, area offices of the local authority, and primary schools should preferably be located in district, local and village centres.

References

10.2.10 In deciding whether to identify sites for retail and leisure developments local planning authorities should in the first instance **consider whether there is a need for additional provision** for these uses. Such need may be quantitative to address a provable unmet demand for the provision concerned. Need may also be qualitative, such as where it can be shown that new provision will contribute to meeting the policies set out in UDPs and in this guidance. Thus where the current provision appears to be adequate in quantity, the need for further allocations may be justified if new provision can be located where:

- it is highly accessible by walking, cycling or public transport;
- it contributes to a substantial reduction in car journeys;
- it contributes to the co-location of facilities in existing town, district, local or village centres; or where
- it significantly contributes to the vitality, attractiveness and viability of such a centre.

If there is no need for further development for retail or leisure uses, there will be no need to identify additional sites.

10.2.11 Local planning authorities should **adopt a sequential approach** to selecting sites where a need is identified for such new development. The sequential approach should also be used when allocating sites for the other uses best located in existing centres (see 10.2.9). Adopting a sequential approach means that first preference should be for town centre locations where suitable sites or buildings suitable for conversion are available, followed by edge-of-centre sites, then by district and local centres and, only then, out-of-centre sites in locations that are accessible by a choice of means of transport.

10.2.12 Local planning authorities should take a positive approach, in partnership with the private sector, in identifying additional sites which accord with this approach. Where sites are allocated for different types of retail developments they should take account of such factors as floorspace, quality, convenience, attractiveness and traffic, but should not prescribe rigid floorspace limits, whether for town centres or other development, that would unreasonably inhibit the retail industry from responding to changing demand and opportunity. As proposals for development may come forward after the UDP has been adopted, and may be brought forward irrespective of whether the plan provides allocations, plans should also include criteria based policies in line with this guidance to guide consideration of such proposals.

10.2.13 Part 1 of the UDP should:

- establish the strategic role to be performed by the main centres in the retail hierarchy.

10.2.14 Part 2 of the UDP should:

- set out measures to reinvigorate particular centres, as appropriate;
- set out detailed policies to achieve vital, attractive and viable centres;
- allocate sites for new retail and leisure facilities and other uses best located in town centres, where there is assessed to be a quantitative or qualitative need using the sequential approach;
- include a criteria based policy against which proposals coming forward on unallocated sites can be judged;
- set out policies for primary and secondary frontages, where appropriate.

10.3 Development control and retailing and town centres

10.3.1 When determining a planning application for retail, leisure or other uses best located in a town centre, including extensions to existing developments, local planning authorities should take into account:

- compatibility with the UDP strategy;
- consideration of the need for the development;

- the sequential approach to site selection;
- the impact on existing centres;
- accessibility by a variety of modes of travel; and
- the impact on overall travel patterns.

10.3.2 Developers should be able to demonstrate that all potential town centre options, and then edge of centre options, have been thoroughly assessed using the sequential approach, before out-of-centre sites are considered for key town centre uses. The onus of proof that more central sites have been thoroughly assessed rests with the developer, and in the case of appeal the Assembly will need to be convinced that this has been undertaken. This approach also requires flexibility and realism from local planning authorities, developers and retailers.

10.3.3 To maximise the opportunities for new development in centres, developers and retailers will need to be more flexible and innovative about the format, design and scale of proposed development and the amount of car parking, tailoring these to fit the local circumstances. Rather than propose developments with a mixture of large scale retail and/or leisure uses and a large amount of car parking which can only be accommodated at single site out-of-centre or even out-of-town locations, developers are expected to demonstrate why they could not develop elements of the larger scheme on a site, or a number of sites, in more central locations with less car parking.

10.3.4 For major new retail proposals, local planning authorities should consider not only the incremental effects of that proposal but the likely cumulative effects of recently completed developments, together with outstanding planning permissions and UDP commitments, in the catchment areas of those centres.

10.3.5 The commitment to accessible shopping and sustaining existing centres means that local planning authorities should seek to retain an adequate level of provision for food shopping, together with post offices and pharmacies in existing town, district and local centres and in villages.

10.3.6 **Out-of-centre food supermarkets** should not be allowed if their provision is likely to lead to the loss of general food retailing in the centre of smaller towns. Where the inclusion of post offices and

pharmacies in out-of-centre retail developments would be likely to lead to the loss of existing provision they should be discouraged by imposing appropriate conditions.

10.3.7 The economic and social role of **local shops, village shops and public houses** should be taken into account when considering applications for a change of use of existing shops into dwellings or other uses. In rural areas local planning authorities should adopt a positive approach to applications for conversion of suitable village properties to shops and for extensions to village shops designed to improve their viability. A positive approach should also be taken, subject to amenity considerations, to re-establish a public house in villages which have completely lost such provision. The lack of public transport in rural areas should not preclude small-scale retail or service developments where these will serve local needs.

10.3.8 Shops ancillary to other uses, such as **farm shops**, that will help meet the demand for fresh produce, craft shops and shops linked to petrol stations can also serve a useful role in rural areas by providing new sources of jobs and services (see Chapter 7). In assessing such proposals, local planning authorities should take account of:

- the potential impact on nearby village shops;
- the desirability of providing a service throughout the year; and
- the likely impact of traffic generated and access and parking arrangements.

10.3.9 Out-of-centre retail developments may seek over time to change the range of goods they sell or the nature of the sales area, for example by subdivision to a mix of smaller units, or to a single 'department' store. If such a change could allow a development that the planning authority would have otherwise refused, planning conditions, for example to prevent the development from being subdivided into a large number of smaller shops and/or to limit the range of goods sold, should be used on the initial permission. Applications to remove such conditions should be considered in accordance with this guidance.

10.3.10 Some types of retailing such as **stores selling bulky goods and requiring large showrooms** may not be able to find suitable sites in town centres. Such stores should be located at edge of centre

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sites or, where such sites are not available, at locations accessible to a choice of means of transport. Retail parks, where such stores are grouped, should only be considered where accessible to public transport as well as private transport. The need for retail parks should be tested in accordance with the principles in paragraph 10.3.1 above. The scale, type and location of out-of-centre retail developments should not be such as to be likely to undermine the vitality, attractiveness and viability of those town centres that would otherwise serve the community well, and should not be allowed if they would be likely to put town centre strategies at risk.

10.3.11 Single retail outlets at factories selling their own products are likely to be suitable where they do not individually or cumulatively harm the vitality, attractiveness or viability of a town centre and are acceptable in regard to traffic generation, access and parking. Free-standing developments which include a number of factory outlets should be assessed on the same basis as other retail proposals. The central issue is not whether goods are sold at a discount, but whether such retail developments would divert trade in comparison goods away from existing town centres. Such centres may draw customers from a wide catchment area, predominantly by car, and as a result are unlikely to be consistent with the criteria in this guidance unless those issues can be satisfactorily resolved. Factory outlet centres may play a positive role in revitalising declining shopping centres where there is presently unused capacity or a lack of suitable opportunities for conversion.

10.3.12 Warehouse clubs share many of the characteristics of very large retail outlets, and they should be treated as if they were retail businesses in assessing planning applications for them.

10.3.13 Amusement centres are most appropriately sited in secondary shopping areas or in areas of mixed commercial development. They are unlikely to be acceptable in primary shopping areas, close to housing, or near schools, places of worship, hospitals and hotels, nor in conservation areas or other places of special architectural, historic, landscape or natural environment character. In resort towns, seafront locations may be preferred (but see section 5.6). Account will always need to be taken of the amount of noise already generated in the area. It will not normally be reasonable to expect amusement centres to be quieter than their neighbours.

10.3.14 When determining applications for renewal of planning permission for retail, leisure, and other uses best located in existing town centres, local planning authorities should determine the application in accordance with the up-to-date UDP and with regard to this guidance including the sequential approach. This may mean that permissions are not renewed where the proposals do not accord with current policy. Proposals to change the use of existing retail allocations which are not in conformity with this guidance (for example, because they are located where access by walking, cycling and public transport is poor) to other more acceptable land uses at those locations, should be supported.

10.3.15 Applications for non-retail use of allocated retail sites which conform to this guidance should not normally be permitted. However, some sites in urban areas with extant but unimplemented permissions for commercial or retailing uses may be suitable for housing development that could help bring vitality to urban centres. Where vacant offices and retail premises in existing shopping centres seem unlikely to be used again for these purposes, authorities should encourage conversion to other appropriate uses.

10.3.16 Planning applications for retail development should not normally be permitted on land designated for other uses. This advice applies especially to land allocated for industry, employment and housing, where retail development can be shown to have the effect of limiting the range and quality of sites that would be available for such uses.

CHAPTER 11 TOURISM, SPORT AND RECREATION

References

11.1 Objectives

11.1.1 **Tourism** is a major element in the Welsh economy, particularly in rural and coastal areas. It is a significant and growing source of employment and investment, based on the country's cultural and environmental diversity. Tourism can be a catalyst for environmental protection, regeneration and improvement in both rural and urban areas.

11.1.2 The Assembly Government's objectives for tourism are :

- to encourage sustainable tourism in Wales, maximising its economic and employment benefits, promoting tourism in all seasons, and encouraging its development in non-traditional destinations, while safeguarding the environment, and the interests of local communities^{1,2}; and
- to manage change in the tourism sector in ways which respect the integrity of the natural, built and cultural environment to provide for economic growth, employment and environmental conservation.

1 'Achieving Our Potential', Wales Tourist Board, 2000

2 Technical Advice Note (Wales) 13, 'Tourism', 1997

11.1.3 **Sport and recreation** contribute to our quality of life. The Assembly Government supports the development of sport and recreation and the wide range of leisure pursuits which encourage physical activity. They are important for the well being of children and adults and for the social and economic life of Wales. The Assembly Government's main planning objectives are to promote:

- a more sustainable pattern of development by creating and maintaining networks of facilities and open spaces in places well served by sustainable means of travel, in particular within urban areas;
- social inclusion, improved health and well-being by ensuring that everyone, including the elderly and those with disabilities, has easy access to good quality, well-designed facilities and open space; and
- the provision of innovative, user-friendly, accessible facilities to make our urban areas, particularly town centres, more attractive places, where people will choose to live, to work and to visit.

11.1.4 Tourism covers a wide range of activities, facilities and types of development. It affects all parts of urban and rural Wales and the planning system should encourage sustainable tourism in ways which enable it to contribute to economic development, conservation, rural diversification, urban regeneration and social inclusion. In addition to supporting the continued success of existing tourist areas, appropriate tourist related commercial development in new destinations, including existing urban and industrial heritage areas, should be encouraged.

11.1.5 Much of the existing provision of facilities and accommodation for tourism occurs in urban locations, including historic and coastal towns. In some places there may be a need to limit new development to avoid damage to the environment, for example in undeveloped coastal areas (see section 5.5), and the amenity of residents and visitors. In others, there will be scope for tourist development, providing well-designed facilities to help bring about regeneration, particularly of former industrial areas.

11.1.6 In rural areas, tourist development is an essential element in providing for a healthy, diverse, local and national economy. It can contribute to the provision and maintenance of facilities for the local community. Here too development should be well designed and sympathetic in scale and nature to the local environment and the needs of the local community.

11.1.7 Planning authorities should provide the framework for well located, good quality tourism, sport, recreation and leisure facilities. The areas and facilities provided in both rural and urban areas should be sensitive to the needs of users, attractive, well designed, well maintained, protected from crime and vandalism, safe and accessible by people whose mobility is restricted and by a variety of sustainable means of travel, particularly walking, cycling and public transport³. Long distance routes, rights of way, disused railways and waterways are important tourist and recreation facilities in their own right and as a means of linking other attractions. In rural areas in particular, the scale and nature of such development must be sensitive to the local environment⁴.

11.1.8 Development for tourism, sport and leisure uses should, where appropriate, be located on previously used land. The sensitive refurbishment and re-use of historic buildings presents particular opportunities for tourism and leisure facilities.

References

3 Technical Advice Note (Wales) 16, 'Sport and Recreation', 1998

4 Research Report on 'Planning for Leisure and Tourism', DETR, 2001

TOURISM, SPORT AND RECREATION

11.1.9 The planning system should ensure that adequate land and water resources are allocated for formal and informal sport and recreation, taking full account of the need for recreational space and current levels of provision and deficiencies, and the impact on the location.

11.1.10 Formal and informal open spaces, including parks, with significant recreational or amenity value should be protected from development, particularly in urban areas where they fulfil multiple purposes, not only enhancing the quality of life, but contributing to biodiversity, the conservation of nature and landscape, air quality and the protection of groundwater.

11.1.11 All playing fields whether owned by public, private or voluntary organisations, should be protected except where:

- facilities can best be retained and enhanced through the redevelopment of a small part of the site;
- alternative provision of equivalent community benefit is made available; or
- there is an excess of such provision in the area.

11.1.12 Local planning authorities may be justified in seeking Section 106 Planning Agreements to contribute to the maintenance of safe and attractive facilities and open space, and to meet the needs of new communities. Such agreements may also need to be used to help ensure that standards of provision set out in UDPs are met.

11.1.13 Local planning authorities should seek to protect and enhance the rights of way network as a recreational and environmental resource. They are also encouraged to promote the national cycle network, long distance footpaths, bridleways, canals, inland waters and disused railways for sustainable recreation^{5, 6}.

11.2 UDPs and tourism, sport and recreation

11.2.1 UDPs should consider the scale and distribution of facilities and activities in the area, and provide for the accommodation and management of future needs in ways which limit environmental impact, and protect the landscape, biodiversity, the coast, the historic environment, areas of special interest and the interests of local communities.

References

5 Countryside and Rights of Way Act 2000

6 'Waterways for Tomorrow', DETR, 2000.

11.2.2 Part 1 of the UDP must :

References

- set out a strategic approach to the provision and enhancement of well designed tourist, sport, recreation and leisure facilities in the area, considering the scale and broad distribution of facilities and the environmental, economic and social implications of likely future change, particularly with regard to urban regeneration and rural diversification.

11.2.3 Part 2 of the UDP provides the basis for the determination of planning applications. It should :

- provide guidance for access to the countryside and coast for tourist, sport and recreational uses, ensuring that access can be provided by a choice of modes of travel, but particularly on foot, by cycle and public transport;
- protect from development, open space that has significant amenity or recreational value to the community;
- indicate the way in which previously developed land or disused land and water will be considered for tourism, sport and recreation uses, particularly in relation to urban regeneration;
- contain clear policies for the provision, protection and enhancement of tourist, sport, recreation and leisure facilities;
- set standards of provision so that local deficiencies can be identified and met through the planning process;
- locate facilities which may generate high levels of travel demand in or close to town centres where possible;
- ensure that open spaces and built facilities are sited, designed and maintained to be integral parts of existing and new developments to encourage their use and minimise crime and vandalism;
- encourage the multiple use of open space and facilities, where appropriate, to increase their effective use and reduce the need to provide additional facilities;

- set out policies to avoid or resolve conflict between different pursuits;
- where recreational use of redundant railway lines or spaces alongside canals or rivers is proposed, ensure that there is no detriment to adjoining users, to wildlife or to flood defences;
- consider the scope to use disused land and routes as parks, linear parks or greenways in urban areas;
- encourage the diversification of farm enterprises and other parts of the rural economy into appropriate tourist, sport recreation and leisure uses, subject to adequate safeguards for the character and appearance of the countryside, particularly its landscape, biodiversity and local amenity value;
- encourage the provision of safe cycle routes and footpaths.

11.3 Development control and tourism, sport and recreation

11.3.1 In determining planning applications for tourist developments, local planning authorities need to consider the impact of proposals on the environment and local community. They may seek to reduce the impact of development using arrangements for traffic and visitor management.

11.3.2 Authorities need to consider the effects of sport and recreation on neighbouring uses in terms of noise, light emissions, traffic generation and, in the case of larger developments, ease of access and the safety of residents, users and the public.

CHAPTER 12 INFRASTRUCTURE AND SERVICES

References

12.1 Objectives

12.1.1 Adequate and efficient infrastructure, including services such as education and health facilities along with water supply, sewers, waste management, electricity and gas (the utilities) and telecommunications, is crucial for the economic, social and environmental sustainability of all parts of Wales. It underpins economic competitiveness and opportunities for households and businesses to achieve more socially and environmentally desirable ways of living and working. At the same time, infrastructure which is poorly designed or badly located can exacerbate problems rather than solving them.

12.1.2 This chapter deals with infrastructure and services, that is with issues of water supply and waste water management, waste management, energy supply from renewable sources, and telecommunications. Guidance relating to transport infrastructure is in Chapter 8.

12.1.3 European environmental legislation places obligations on EU Member States with regard to the provision of environmental infrastructure (such as waste water treatment plants) and the Assembly has an important role in securing compliance.

12.1.4 The Assembly Government aims to secure the environmental and telecommunications infrastructure necessary to achieve sustainable development objectives, while minimising adverse impacts on the environment, health and communities. The objectives are:

- to protect and improve water resources through increased efficiency and demand management of water, particularly in those areas where additional water resources may not be available¹;
- to ensure that appropriate sewerage facilities are provided to convey, treat and dispose of waste water in accordance with appropriate legislation and sustainability principles;
- to ensure that appropriate facilities are established to reduce, re-use, recover and, where necessary, safely dispose of waste, so as to meet the Assembly Government's objectives for waste management;

¹ 'Water Resources for the Future - A Strategy for Wales', Environment Agency Wales, 2001

- to promote the generation and use of energy from renewable sources and energy efficiency, especially as a means of reducing the effects of climate change;
- to facilitate the development of an advanced broadband telecommunications infrastructure throughout Wales;
- to promote an integrated approach to the provision and renewal of environmental and telecommunications infrastructure; and
- to ensure that environmental and telecommunications infrastructure is provided in such a way as to enable sustainable development objectives to be met, avoiding adverse impacts on the environment (including the natural and historic environment), local communities and health.

12.1.5 Strategic policies relating to the provision of environmental and telecommunications infrastructure will be set out in the Wales Spatial Plan.

12.1.6 The planning system has an important part to play in ensuring that the infrastructure on which communities and businesses depend is adequate to accommodate proposed development so as to minimise risk to human health and the environment and prevent pollution at source.

12.1.7 The capacity of existing infrastructure, and the need for additional facilities, should be taken into account in the preparation of UDPs and the consideration of planning applications. In general, local planning authorities should seek to **maximise the use of existing infrastructure** and should consider **how the provision of different types of infrastructure can be co-ordinated**.

12.1.8 Local planning authorities must develop a strategic and long-term approach to infrastructure provision when preparing UDPs. They should consider both the siting requirements of the utility companies responsible for these services to enable them to meet community needs and the environmental effects of such additional uses. Development may need to be phased, in consultation with the relevant utilities providers, to allow time to ensure that the provision of utilities can be managed in a way consistent with general policies for sustainable development.

12.1.9 It is essential that local planning authorities consult utility companies and other infrastructure providers and the Environment Agency at an early stage in the formulation of land use policies. Assembly Government Guidance in *UDPs Wales 2001* provides details of the bodies which must be consulted about particular issues to ensure that plan policies are realistic and capable of implementation. Local authorities are also required to consult appropriate bodies and to take their views into account when determining planning applications.

12.2 Water supply and waste water management

12.2.1 Local planning authorities should promote increased efficiency and demand management of water resources, particularly in those areas where additional water resources may not be available².

12.2.2 The EU Water Framework Directive³ imposes new requirements for the integrated planning and management of water catchment areas which will have implications for land use planning in both urban and rural areas.

12.3 UDPs and water

12.3.1 UDPs should take water-related issues into account from an early stage in the process of identifying land for development and redevelopment. New development should be located and its implementation planned in such a way as to allow for sustainable provision of water services. Design approaches and techniques that improve water efficiency and minimise adverse impacts on water resources, on water quality, the ecology of rivers, and on groundwater should be encouraged (see 13.10 to 13.12).

12.4 Development control and water

12.4.1 The adequacy of water supply and the sewage infrastructure are material in considering planning applications and appeals. The need to balance the growing demand for water with the needs of the environment is crucial. Even where there is theoretical capacity, timely investment in infrastructure is required to ensure that new development does not adversely affect water supplies or water quality. These issues require early identification when locating future development. Local planning authorities should therefore encourage the use of sites where existing water supply and/or drainage provision problems can be solved and seek to avoid the use of sites where adequate water supply and/or drainage provision is unlikely to be achieved.

References

2 'Water Resources for the Future - A Strategy for Wales', Environment Agency Wales, 2001

3 EC Water Framework Directive (2000/86/EEC) and First Consultation Paper on the implementation of the EC Water Framework Directive (2000/60/EEC)

INFRASTRUCTURE AND SERVICES

12.4.2 Development proposals in sewerred areas must connect to the main sewer, and it will be necessary for developers to demonstrate to local planning authorities that their proposal site can connect to the nearest main sewer. To ensure consistency of design and facilitate long-term maintenance, sewers should be built to an adoptable standard, and developers should consult sewerage undertakers in the early stages of design and planning.⁴

12.4.3 Development proposing the use of non-mains drainage schemes will only be considered acceptable where connection to the main sewer is not feasible.⁵ Non-mains sewage proposals, such as septic tanks and surface water drainage schemes, included in development applications should be the subject of an assessment of their effects on the environment, amenity and public health in the locality, in accordance with the criteria set out in Circular 10/99, prior to the determination of the planning application. A catchment wide perspective should be adopted, including the use of Sustainable Urban Drainage Systems where appropriate.⁶

12.5 Planning to reduce and manage waste

12.5.1 Local planning authorities are obliged by the EC Framework Directive for Waste⁷ to make provision for establishing an integrated and adequate network of waste disposal installations. They are also required, in conjunction with the Environment Agency which issues waste management licences and pollution control permits (see Chapter 13), to ensure that waste is recovered or disposed of without harming the environment, without endangering human health, without risk to water, air, soil, plants or animals, without causing a nuisance through noise or odours, and without adversely affecting the countryside or places of special interest, including areas of acknowledged importance in relation to the natural and cultural heritage.

12.5.2 The UK Government's general policy towards waste management is based on a hierarchy of reduction, re-use and material recovery (including recycling and composting), energy recovery with effective use of waste heat, and safe disposal. A sustainable approach to waste management will require greater emphasis on reduction, re-use and recovery and less reliance on disposal without recovery, and the consideration of the Best Practicable Environmental Option (BPEO) which is one of the key mechanisms used to guide waste management options. Research is being undertaken to develop BPEO further to incorporate social and

References

4 'The Provision of New Drains and Sewers in England and Wales: Consultation Paper', DETR and the National Assembly for Wales, 2000

5 Welsh Office Circular 10/99, 'Planning Requirements in Respect of the Use of Non-mains Sewerage, Incorporating Septic Tanks in New Development'

6 A revised Technical Advice Note (Wales) 15, 'Development and Flood Risk', is in preparation and will provide further advice on sustainable drainage systems.

7 EC Framework Directive for Waste 75/442/EEC, as amended by EC Directives 91/156/EEC and 91/692/EEC

economic impacts leading to a methodology for determining the most sustainable waste management option. Further advice will be issued.

12.5.3 Waste should be managed (or disposed of) as close to the point of its generation as possible, in line with the proximity principle. This is to ensure, as far as is practicable, that waste is not exported to other regions. It also recognises that transportation of wastes can have significant environmental impacts. The waste hierarchy, the proximity principle and regional self-sufficiency should all be taken into account during the determination of the BPEO for the network of waste management installations that provides the best solution to meet environmental, social and economic needs.

12.5.4 In Wales, the aim should be to provide sufficient facilities to treat, manage, or dispose of all the waste produced. Each local authority should consider what facilities are required to manage all waste streams generated within its area, although it may be necessary for some facilities (such as facilities for managing special or clinical waste) to be shared. Local authorities should co-operate through joint working arrangements⁸ to produce regional waste plans in order to provide Wales with an integrated and adequate framework or network of facilities that is actually achieved, thus meeting the requirements of the EC Directive. Local authorities should encourage any necessary movement of waste by rail and water rather than by road wherever economically feasible and have regard to the proximity principle.

12.5.5 The Environment Agency has a statutory role in relation to the management and regulation of waste and the collection of waste production and management data. The Agency also has a statutory role in development planning for waste management through consultation on individual plans and as a consultee on certain planning applications. The Environment Agency will contribute to the development and implementation of the joint working arrangements.

12.6 UDPs and waste planning

12.6.1 Local planning authorities must have regard to the national waste strategy⁹ in formulating their UDPs. They must ensure that policies in UDPs facilitate the delivery of the waste management objectives in the *Waste Strategy for Wales* and meet the obligations required by European legislation.¹⁰

References

8 Technical Advice Note (Wales) 21, 'Waste', 2001

9 Waste Strategy 2000, National Assembly for Wales, 2000 (to be replaced by a Waste Strategy for Wales in 2002 - a consultation paper, 'Managing Waste Sustainably', issued in July 2001)

10 EC Landfill Directive, Directive 1999/31/EC and EC Framework Directive for Waste, 75/442/EEC as amended by EC Directives 91/156/EEC and 91/692/EEC

INFRASTRUCTURE AND SERVICES

12.6.2 UDP policies should demonstrate how the objectives in the national waste strategy have been taken into account. UDPs should identify sites for waste facilities or areas where such facilities may be suitable. UDPs should show the regard that the authority has had to any regional waste plan¹¹ and any waste management and recycling plans relevant to its area. Policies proposing any major new development should incorporate adequate and effective waste management facilities.

12.7 Development Control and waste planning

12.7.1 Decisions on planning applications should have regard to the waste management objectives in the national waste strategy. The environmental impact of proposals for waste management facilities must be adequately assessed, supported by independent surveys where appropriate, to determine whether a planning application is acceptable and, if the adverse impacts on amenity cannot be mitigated, planning permission should be refused. Adequate facilities for the collection, composting and recycling of waste materials should be incorporated into the design of any major development.

12.7.2 Local planning authorities and the Environment Agency are expected to work closely together to ensure that conditions attached to planning consents, those attached to waste management licences and those attached to consents from other pollution control regimes are complementary and do not duplicate one other.

12.8 Sustainable energy

12.8.1 It is now widely accepted that climate change is occurring and that the burning of fossil fuels, which generate greenhouse gas emissions, is a major contributor. Unless such emissions, particularly carbon dioxide, are brought under control, there will be severe and unpredictable global impacts which in turn will lead to significant effects at local level.

12.8.2 At Kyoto in December 1997 the European Union agreed jointly to reduce emissions of a basket of greenhouse gases to 8% below 1990 levels by 2008-12. The UK government agreed to a 12.5% reduction and set a domestic goal of reducing emissions by 20% of 1990 levels by 2010. In an effort to deliver these targets, the Government has launched its Climate Change Programme.¹² The Assembly Government is committed to playing its part in developing and delivering a climate change programme which meets these targets.^{13,14}

References

11 Technical Advice Note (Wales) 21, 'Waste', 2001

12 'Climate Change – The UK Programme', DETR, 2000

13 'Wales: Changing Climate, Challenging Choices – a scoping study of climate impact in Wales', National Assembly for Wales, 2000

14 'Climate Change Wales: learning to live differently', National Assembly for Wales, 2001

12.8.3 The objective of the UK Government's energy policy is to ensure a secure, diverse and sustainable supply of energy at competitive prices consistent with wider economic policies, the promotion of energy efficiency and health and safety and the full and proper protection of the local and global environment. This includes increasing the UK contribution of electricity supplied from renewable energy sources to 5% by the end of 2003, rising to 10% by 2010.¹⁵ The Government has also implemented a review of energy supply and use with a long term view towards 2050 in order to provide strategic planning for diverse, secure, sustainable and environmentally acceptable energy supplies for the UK.

12.8.4 The Assembly Government's aim is to secure the strongest economic development policies to underpin growth and prosperity in Wales and recognise in this the importance of clean energy, both as an economic driver and to take forward the Assembly's commitment to sustainable development. As part of this the Assembly Government intends to encourage the development of the renewables sector and promote energy efficiency and conservation in an economic, environmentally sound and socially acceptable way.

12.8.5 The Assembly's Economic Development Committee is undertaking a review of energy in Wales. The review will explore the long-term scenarios for (non-transport) energy production and use in Wales and make recommendations to the Assembly Government on a strategic framework for achieving the optimum sustainable use and generation of energy in Wales up to 2020. The targets which emerge from this review will form part of the Assembly Government's commitment to the delivery of the climate change obligations and inform future planning policy.

12.8.6 Renewable energy currently accounts for some 3% of Wales's electricity generation. The Assembly Government wishes to see the planning system play its part in contributing to the UK Climate Change Programme and the objectives outlined in 12.8.3, enabling Wales to work towards an agreed target of its electricity and heat requirements from renewable sources by 2010.

12.8.7 For the purposes of this policy, renewable energy is the term used to cover those sources of energy, other than fossil fuel or nuclear fuel, which are continuously and sustainably available in our environment. This includes wind, water, solar, geothermal energy

References

15 'Prospects for New and Renewable Technologies – Prospects for the 21st Century', DTI, 1999

INFRASTRUCTURE AND SERVICES

and plant material often referred to as biomass. Biomass is generally regarded as fuel (other than fossil fuel), at least 98 per cent of the energy content of which is derived from plant or animal matter or substances derived therefrom (whether or not such matter or substances are waste). This includes agricultural, forestry, or wood wastes or residues, sewage and energy crops.¹⁶

12.8.8 It should be noted that consents and environmental assessments for offshore wind energy developments are required under UK legislation, namely the Electricity Act 1989, the Coast Protection Act 1949 and the Food and Environmental Protection Act 1985.

12.8.9 Local planning authorities should therefore facilitate the development of all forms of renewable energy and energy efficiency and conservation measures where they are environmentally and socially acceptable. They should make positive provision for such development to meet society's needs now and in the future by:

- considering the contribution that their authority area can make towards developing and facilitating renewable energy and energy efficiency and conservation through their UDPs;
- ensuring that development control decisions are consistent with national and international climate change obligations, including a contribution to renewable energy targets, having regard to emerging national and international policy on the levels of renewable energy required and on appropriate technologies; and
- recognising the environmental, economic and social opportunities that the use of renewable energy resources can make to wider planning goals and objectives and the delivery of renewable energy targets.

12.8.10 At the same time local planning authorities should:

- ensure that international and national statutory obligations to protect designated areas, species and habitats and the historic environment are protected from inappropriate development; and

References

16 The Renewables
Obligation Statutory
Consultation, DTI,
2001

- ensure that environmental effects on local communities are minimised.

References

12.9 UDPs and sustainable energy

12.9.1 Local planning authorities should undertake an assessment of the potential of all renewable energy resources and the potential of renewable energy technologies and energy efficiency and conservation measures and include detailed policies in their UDPs.^{17, 18}

12.9.2 In undertaking such assessments local planning authorities should¹⁹:

- take into account the contribution that can be made by the area towards climate change and renewable energy targets; and
- recognise that different approaches will be appropriate for the deployment of the different renewable technologies and energy efficiency and conservation measures.

12.9.3 Local planning authorities should seek opportunities to integrate energy efficiency and conservation objectives into the planning and design of new development in their areas. For example solar gain can be maximised through appropriate development design. The layout, orientation, mix of uses, density of development, including scope for light penetration, planting of shelter vegetation and optimal use of local topography can all influence energy requirements.^{20, 21}

12.9.4 In terms of wind energy technologies, UDPs may, where possible and practicable, indicate broad locations or specific areas where wind energy developments are likely to be permitted. In defining such areas it will be appropriate to balance the scale and contribution of such developments to certain levels of renewable energy against the sensitivity of the receiving environment. Small scale or domestic scale schemes may be appropriate in most locations provided they are sensitively sited and designed. In nationally designated areas large scale deployment of renewable energy may not be appropriate.

17 'Planning for Passive Solar Design', BRECSU

18 Technical Advice Note (Wales) 8, 'Renewable Energy', 1996 (a revised version is in preparation and will provide further guidance on various aspects of this policy)

19 Technical Advice Note (Wales) 8, 'Renewable Energy', 1996

20 Technical Advice Note (Wales) 12, 'Design', 2002

21 A revised Technical Advice Note (Wales) 8, 'Renewable Energy', is in preparation and will provide further guidance.

12.10 Development control and sustainable energy

12.10.1 Local planning authorities should consider the effects of any scheme and its associated infrastructure on the local environment. Where a development is likely to cause demonstrable harm to a designated area by virtue of having a significant adverse impact on the qualities for which the site was designated, consideration should be given to refusing the development if such effects cannot be overcome by planning conditions or agreements.

12.10.2 Whilst having regard to the contribution of renewable energy use to wider planning goals such as the diversification of the rural economy, local planning authorities should ensure that any environmental effects on local communities are minimised, to safeguard quality of life for existing and future generations.

12.10.3 In determining applications for any form of development local planning authorities should encourage developers to integrate energy efficiency and conservation measures as part of the design of new development.

12.11 Telecommunications²²

12.11.1 The Assembly Government recognises that there is a need for access to modern, high-speed telecommunications services throughout Wales. Policy on this is set out in the Assembly Government's *Information Age Strategic Framework*.²³ It is recognised that access to high-speed services can help to meet the Assembly's sustainable development and equal opportunity commitments. Information and communications technologies can especially assist those living and working in remote rural areas. The Assembly Government has well-established policies for the protection of the countryside and urban areas – in particular the National Parks, AONBs, SSSIs, the Heritage Coast and areas and buildings of architectural or historic importance (see Chapters 5 and 6 for details). Local planning authorities are encouraged to respond positively to telecommunications development proposals, while taking account of the advice on the protection of urban and rural areas.

12.12 UDPs and telecommunications

12.12.1 UDPs should set out policies and proposals for the location of telecommunications development, allocating sites for major developments and including criteria-based policies to guide

References

22 Technical Advice Note (Wales) 19, 'Telecommunications', 2002 (expected to issue in May 2002)

23 The Information Age Strategic Framework can be found at www.cymruarlein.wales.gov.uk

telecommunications developments where sites other than those identified in the plan may be proposed.

12.12.2 Criteria should be sufficiently flexible to accommodate technical changes and may be concerned with the siting and appearance of apparatus, including location and landscaping requirements designed to minimise the impact on amenity consistent with operational requirements

12.13 Development control and telecommunications

12.13.1 The installation of many telecommunications systems is covered by permitted development rights, which may be subject to the local planning authority's prior approval²⁴ of details of siting and appearance. Where listed building consent is concerned, all telecommunications development is subject to normal statutory procedures (see Chapter 6).

12.13.2 Where approval of details of planning permission is required the following should, in particular, be taken into account for telecommunications related planning applications :

- the extent to which radio and telecommunications masts can be shared; and
- the need for dishes and other installations to blend with their backgrounds.

The Assembly Government attaches considerable importance to keeping the number of masts, and the sites for such installations, to the minimum consistent with the efficient operation of the network. The sharing of masts and sites is strongly encouraged where that represents the optimum environmental solution in a particular case. Use should also be made of existing buildings and other structures to site new antennas. Siting should, so far as practicable, minimise the impact on amenity and the external appearance of the building.

12.13.3 With the closure of the analogue mobile phone network, the re-use of existing sites is encouraged so as to minimise the need for new second and third generation base station sites.

12.13.4 Planning permission or approval of details should not be refused on the basis of policies that take insufficient account of the growth and characteristics of modern telecommunications.

References

24
'Telecommunications
Prior Approval
Procedures as Applied
to Mast Tower
Development', Code
of Best Practice, DoE
/Welsh Office, 1998

INFRASTRUCTURE AND SERVICES

12.13.5 Authorities should not question the need for the telecommunications system that the proposed development is to support, nor seek to prevent competition between different operators. The aim should be for the authorities and operators to work together to find optimum solutions to development requirements. The Assembly Government strongly encourages telecommunications operators and local planning authorities to carry out annual discussions about roll-out plans for each authority's area. Pre-application discussions should be carried out between operators and local planning authorities on a specific development proposal. Pre-application discussions should also be carried out between operators and other organisations, including residents groups, with an interest in the proposed development.

12.13.6 Where a mast is to be installed on or near a school or college, it is important that operators discuss the proposed development with the relevant body of the school or college concerned before submitting an application for planning permission or prior approval to the local planning authority.

12.13.7 Health considerations can be material considerations in determining applications for planning permission and prior approval as, in principle, can public concerns in relation to such effects. Whether such matters are material in a particular case is ultimately a matter for the courts. It is for the decision-maker to determine what weight to attach to such considerations in any particular case.

12.13.8 With regard to the health implications of proposed development, it is the Assembly Government's view that, if the development meets the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines as expressed in the EU Council Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (as recommended by the report of the Independent Expert Group on Mobile Phones (the Stewart Group)²⁵ on a precautionary basis), it should not be necessary for a local planning authority in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them. All new base stations are expected to meet the ICNIRP guidelines.

12.13.9 The Stewart Group's report suggested a number of specific precautionary actions that have been accepted by the Assembly Government. The report does not provide any basis for

References

25 The Stewart
Report can be found
at www.iegmp.org.uk

precautionary actions beyond those already proposed. In the Assembly Government's view, local planning authorities should not implement their own precautionary policies, such as imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunications development and existing development.

12.13.10 In any development, significant and irremediable radio interference with other electrical equipment of any kind can be a material planning consideration.

References

CHAPTER 13 MINIMISING AND MANAGING ENVIRONMENTAL RISKS AND POLLUTION

13.1 Objectives

13.1.1 Planning and environmental management are separate but complementary. By controlling where development can take place and what operations may be carried out, the planning system has an important role in avoiding or minimising the adverse effects of any environmental risks on present or future land use.

13.1.2 The Assembly Government's objectives are to:

- maximise environmental protection for people, natural and cultural resources; and
- prevent or manage pollution and promote good environmental practice.

13.1.3 It is advantageous for the land use planning and various environmental management regimes to operate in parallel. Local planning authorities and pollution control authorities should co-ordinate a joint approach towards developers where possible, especially when an Environmental Statement is required. Implementation of the EU Environment Directives is requiring the various consenting regimes to operate in a more integrated way. For example, competent authorities are encouraged to undertake in combination the assessment needed to fulfil requirements under the Habitats Directive.

13.1.4 Special attention needs to be given to minimising and managing the risks associated with climate change. Planning authorities, the Environment Agency and others, in particular the building industry, should use the precautionary principle to plan now, on the basis of the latest climate change scenarios from the UK Climate Impact Programme, and consider how a changing climate is expected to influence environmental risks over the lifetime of new development. The Environment Agency and other bodies with an interest should advise planning authorities as more knowledge and information becomes available as to where climate change will increase the specific risk to areas proposed for development.

13.2 Flood risk and climate change

References

13.2.1 Flood risk, whether inland or from the sea, is a material consideration in land use planning. All development on land within the flood plain of a watercourse, drained via a culvert, or on low lying land adjacent to tidal waters, is at some risk of flooding and whilst flood risk can be reduced by using mitigation measures it can never be completely eliminated.

13.2.2 Rapid flows due to failure of defences pose a greater risk to life than a steady rise in water level, and land protected by tidal defences is extremely vulnerable in the event of a breach due to the speed and depth of flooding. Flooding as a hazard therefore involves the consideration of the potential consequences of flooding, as well as the likelihood of an event occurring. Therefore local planning authorities should recognise when assessing development proposals located within areas of flood hazard that the development is still at risk from flooding which may threaten human life and cause substantial damage to property, even where mitigation measures are proposed.

13.2.3 Meeting the Assembly Government's objectives for sustainable development requires action through the planning system to move away from flood defence and the mitigation of the consequences of new development in areas of flood hazard towards a more positive avoidance of development in areas defined as being of flood hazard. Planning authorities should therefore adopt a precautionary approach when formulating UDP policies on development and flood risk, and when considering planning applications. In this context, the precautionary principle should be applied on the basis that climate change is likely to increase the risk of coastal and river flooding as a result of sea-level rise and more intense rainfall.

13.2.4 Local planning authorities should take a strategic approach to flood risk and consider the catchment as a whole. They should ensure that new development is not exposed unnecessarily to flooding, therefore, by considering flood risk in terms of the cumulative impact of the proposed development in the locality, on a catchment wide basis (river catchment and coastal cell), and, where necessary, across administrative boundaries. Development proposals should seek to reduce, and certainly not increase, flood risk arising from river and/or coastal flooding or from additional run-off from development in any location.¹

¹ Further advice will follow in a revised version of TAN 15, 'Development and Flood Risk', which is in preparation. This will include guidance and a methodology for assisting decision-making which will define the statements made in this document.

13.3 UDPs and flood risk

References

13.3.1 In preparing their UDPs local planning authorities should consult with adjacent authorities and the Environment Agency and ensure that, as well as not being at risk itself, development does not increase the risk of flooding elsewhere. In doing so they should bear in mind that the continued construction of hard engineered flood defences to protect development in defined areas of flood hazard is unlikely to be sustainable in the long term. When drawing up policies and proposals for their area local planning authorities must acknowledge that government resources for flood and coastal defence projects are directed at protecting 'existing' developments and are not available to provide defences in anticipation of future development. A sustainable approach to flooding will therefore involve the avoidance of development in flood hazard areas and where possible or practical the encouragement of managed retreat, the creation of washlands and flood plain restoration.

13.3.2 In areas of flood plain currently unobstructed, where water flows in times of flood, built development should be wholly exceptional and limited to essential transport and utilities infrastructure. Such infrastructure should be designed and constructed so as to remain operational even at times of flood, to result in no net loss of floodplain storage, to not impede water flows and to not increase flood risk elsewhere. Local planning authorities should recognise that it will be inappropriate to locate certain types of development such as schools, hospitals, residential development and emergency services within some areas defined as being of high flood hazard. In such areas, local planning authorities should ensure that only appropriate land allocations are made during the preparation of UDPs.²

2 As note 1 above.

13.3.3 The Environment Agency has a key role in advising and helping planning authorities and developers to understand the effects of flooding within a river catchment and useful advice is contained in relevant catchment management plans and Local Environmental Action Plans (LEAPs). The Environment Agency has developed a policy entitled *Policy and Practice for the Protection of Floodplains* which aims to assist local planning authorities in their control of development. The results of surveys (under Section 105(2) of the Water Resources Act 1991), where available, are included in the Environment Agency's indicative flood plain maps (which were sent to local planning authorities in Wales in 1999 and updated in November 2000). These, and other relevant information,

should be taken into account by planning authorities as they prepare their UDPs. It is therefore recommended that early consultation is sought with the Environment Agency.

References

13.4 Development control and flood risk

13.4.1 Development proposals in areas defined as being of high flood hazard should only be considered:

- where new development could be justified in that location, even though it is likely to be at risk from flooding; and
- where any development proposal would not result in the intensification of existing development which may itself be at risk or would increase the potential adverse impacts of a flood event.

13.4.2 In determining applications for development, local planning authorities should work closely with the Environment Agency, drainage bodies, sewage undertakers, prospective developers and other relevant authorities to ensure that surface water run-off is to be controlled as near to the source as possible by the use of sustainable urban drainage systems,³ and ensure that development does not:

- increase the risk of flooding elsewhere by loss of flood storage or flood flow route; or
- increase the problem of surface water run-off.

³ Further advice on sustainable urban drainage systems will follow in a revised version of TAN 15, 'Development and Flood Risk', which is in preparation.

13.4.3 It is essential that the Environment Agency's advice is obtained and given due weight as a material consideration by planning authorities in determining individual planning applications. Planning authorities must have good reasons for not following the advice of the Environment Agency, and these should be reported to the Environment Agency prior to planning consent being granted, enabling them to consider submitting further representations. Where detailed information in respect of flood risk is not available, local planning authorities should require developers to carry out detailed technical investigations to evaluate the extent of the risk.

13.4.4 Planning authorities should bear in mind that the Environment Agency will not automatically provide or extend a flood warning service. The Environment Agency has demanding targets to meet and any increase in the number of new properties requiring a

MINIMISING AND MANAGING ENVIRONMENTAL RISKS AND POLLUTION

flood warning service will make these targets more difficult to achieve. Increasing the numbers of new properties in areas at risk from flooding will place increasing pressure on the emergency services and therefore consideration should be given to refusing development.

13.5 Dealing with unstable and contaminated land⁴

13.5.1 The planning system should guide development to lessen the risk from natural or human-made hazards, including risk from land instability and land contamination. The aim is not to prevent the development of such land, though in some cases that may be the appropriate response. Rather it is to ensure that development is suitable and that the physical constraints on the land are taken into account at all stages of the planning process. However, responsibility for determining the extent and effects of instability or other risk remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed, as a planning authority does not have a duty of care to landowners.

13.5.2 A new regime for contaminated land has been introduced under the provisions of Part IIA of the Environmental Protection Act 1990 which came into force in Wales on 1st July 2001⁵. Local planning authorities should be aware of the requirements of Part IIA and ensure that their policies and decisions are consistent with it. Guidance on the Part IIA regime has been issued by the Assembly.⁶ The main issues relating to the interface of the planning system and the new regime will be:

- where land is designated as contaminated land under Part IIA and the owner wishes to subsequently develop the land; and
- where the future use or development of land means that the land will be designated as contaminated land under Part IIA.

13.6 UDPs and contaminated land

13.6.1 Local planning authorities should take into account the nature, scale and extent of contamination which may pose risks to health. Land contamination must be considered in the preparation of UDPs to ensure that:

- new development is not undertaken without an understanding of the risks, including those associated

References

4 Appendix A (Causes of Instability) and Appendix B (Sources of Information) of PPG14, 'Development on Unstable Land', 1990, remain in force in Wales until superseded by a Technical Advice Note (Wales).

5 The Contaminated Land (Wales) Regulations 2001 (SI 2001/2197)

6 'Remediation of Contaminated Land – the National Assembly for Wales Guidance to Enforcing Authorities under Part IIA of the Environment Protection Act 1990', National Assembly for Wales, 2001

with the previous land use, mine and landfill gas emissions, and rising groundwater from abandoned mines;

- development does not take place without appropriate remediation;
- consideration is given to the potential impacts which remediation of land contamination might have upon the natural and historic environments.

References

13.6.2 Where appropriate, UDPs should indicate the general location of known areas of contamination and may also include specific proposals for sites known to be contaminated or where the site history suggests a risk of contamination or the land is designated as contaminated land under Part IIA. Policies for these areas must be accompanied by the warning that they have been defined on the basis of the best information available to the planning authority, are not necessarily exhaustive and that responsibility for determining the extent and effects of such constraints remains that of the developer.

13.6.3 Plans may indicate that the local planning authority will need to be satisfied that any actual or potential contamination can reasonably be overcome. Policies for the rehabilitation and development of existing polluted land and derelict sites should also be included.

13.7 Development control and contaminated land

13.7.1 Planning decisions need to take into account:

- the potential hazard that contamination could do both to the development itself, its occupants and the local environment; and
- results of a specialist investigation and assessment by the developer to determine the contamination of the ground and to identify any remedial measures required to deal with any contamination.

13.7.2 Where significant contamination issues arise, the authority will require the production of detailed investigation and risk assessment prior to the determination of the application to enable beneficial use of land. Where acceptable remedial measures could overcome such contamination, then planning permission may be granted subject to conditions specifying the necessary measures. If

MINIMISING AND MANAGING ENVIRONMENTAL RISKS AND POLLUTION

contamination cannot be overcome satisfactorily, the authority may refuse planning permission.

References

13.7.3 Undertaking development on land designated as contaminated land for the purposes of Part IIA may provide a net cost benefit, by way of taking land from a perceived negative value to a positive value, necessary to fund the required remediation of contaminated land. If remediation required under Part IIA is to commence via the planning process it will be the responsibility of the local planning authority to ensure that the land is suitable for its proposed use. The developer will need to provide sufficient information to both the local planning authority and the enforcing authority under Part IIA. In such cases remediation will be enforced through planning permission. However, in the absence of a definite timetable for implementing planning permission the option should remain for the enforcing authority under Part IIA to require the necessary remediation and to do so under the 'polluter pays' principle.

13.7.4 A development proposal may introduce changes to a site which may result in land being designated as contaminated under Part IIA, where such land would not be considered contaminated in its existing state under the provisions of the regime. The onus will remain with the developer to ensure that the development of the site will not result in designation as contaminated land under Part IIA. The local planning authority will need to ensure that the land is suitable for its proposed use.

13.7.5 When planning permission is granted, a notice should be issued to inform the applicant that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. It should also advise the applicant that, although the local planning authority has used its best endeavours to determine the application on the basis of the information available to it, this does not mean that the land is free from contamination.⁷

13.8 UDPs and unstable land

13.8.1 Land instability must be considered by local planning authorities in the preparation of UDPs to ensure that:

- new development is not undertaken without an understanding of the risks, including those associated with subsidence, landslips or rock falls;

⁷ Welsh Office Circular 22/87, 'Development of Contaminated Land'

- development does not take place without appropriate precautions;
- development should not be allowed if expensive engineering projects, which have implications for the public purse, will be required to prevent erosion, or in the case of receding cliffs if the site is likely to be affected during the lifetime of the development, or to contribute to the possibility of pollution at a later date by loss of land to the sea; and
- unstable land is restored to safeguard investment and, where possible, returned to productive use.

13.8.2 Local planning authorities should therefore take into account in plan preparation the nature, scale and extent of ground instability which may pose direct risks to life and health, buildings and structures, or indirect hazards associated with ground movement such as the possible migration of landfill or mine gas.

13.8.3 Where appropriate, UDPs should indicate the general location of known areas of unstable ground. Policies for these areas must be accompanied by the warning that they have been defined on the basis of the best information available to the planning authority, are not necessarily exhaustive and that responsibility for determining the extent and effects of such constraints remains that of the developer. Proposals for areas of land instability should take due account of physical constraints and may recommend action on land reclamation or other remedial action to enable beneficial use of unstable land.

13.8.4 Plans may indicate that the local planning authority will need to be satisfied that a site is stable or that any actual or potential instability can reasonably be overcome.

13.9 Development control and unstable land

13.9.1 Planning decisions need to take into account:

- the potential hazard that instability could create to the development itself, its occupants and the local environment; and
- results of a specialist investigation and assessment by the developer to determine the stability of the ground and to identify any remedial measures required to deal with any instability.

13.9.2 Where acceptable measures could overcome instability, planning permission may be granted subject to conditions specifying the necessary measures. If instability cannot be overcome satisfactorily, the authority may refuse planning permission. When planning permission is granted, a notice should be issued to inform the applicant that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. It should also advise the applicant that although the local planning authority has used its best endeavours to determine the application on the basis of the information available to it, this does not mean that the land is free from instability.

References

13.10 Improving the quality of water and air

13.10.1 The planning system should determine whether a development is an acceptable use of land and should control other development in proximity to potential sources of pollution rather than seeking to control the processes or substances used in any particular development.

13.10.2 Planning authorities should operate on the basis that the relevant pollutant control regimes will be properly applied and enforced by other agencies. They should not seek to control through planning measures, matters that are the proper concern of the pollution control authority. These regimes are set out in the Environment Act 1995, the Environmental Protection Act 1990, the Water Resources Act 1991 and the regulatory regimes introduced by the Pollution Prevention and Control Act 1999. Each of these may have a bearing on the environmental controls imposed on the development in respect of environmental and health concerns and planning authorities will need to ensure that planning conditions do not duplicate or contradict measures more appropriately controlled under these regimes.

13.10.3 Where pollution considerations, which may be relevant to a pollution control authorisation or licence or result from the need to comply with any statutory environmental quality standards or objectives, affect the use and development of land they can be material planning considerations. This will include air quality objectives set out under Part IV of the Environment Act 1995 and the local authority's action plans for Air Quality Management Areas and environmental objectives developed as part of the implementation of the European Union's Water Framework

Directive⁸. The weight attached to such considerations will depend on the scope of the pollution control system in each case and the effect on land use and amenity.

13.10.4 Local authorities carry out periodic reviews of the air quality in their areas and assess this against the air quality objectives set out in the regulations. Where a local authority believes that there is currently, or that there is likely to be in future, a breach in an air quality objective, it has the power to declare an 'Air Quality Management Area'.^{9, 10}

13.10.5 The EU Water Framework Directive establishes a strategic approach to water management and a common means of protecting and setting environmental objectives for all groundwaters and surface waters, hence integrating the various preceding directives into a new framework¹¹. For surface waters, objectives will include those for chemical quality and ecological quality. For groundwaters this will include quantitative and chemical quality objectives.

13.11 UDPs and improving the quality of water and air

13.11.1 UDPs are important vehicles for the promotion of environmental protection and should enable consideration of the effects which proposed developments may have on air or water quality and the effects which air or water quality may have on proposed developments. Local planning authorities should take account of such quality objectives when preparing UDPs and should work closely with pollution control authorities in the preparation of these plans and when determining planning applications.

13.11.2 Plans should include strategic policies on the location of potentially polluting developments and should set out criteria by which applications for such developments will be determined, but not exclude provision for such projects or prohibit all applications to set them up. Plans may set out policies and proposals to ensure that incompatible uses of land are separated, in order to avoid potential conflict between different types of development. They should make realistic provision for the types of industry or facility that may be detrimental to amenity or conservation interests, or a potential source of pollution.

References

8 EC Water Framework Directive (2000/86/EEC) and First Consultation Paper on the Implementation of the EC Water Framework Directive (2000/60/EC)

9 The Air Quality (Wales) Regulations 2000 (SI 2000/1940), HMSO 2000

10 'The Air Quality Strategy for England, Scotland, Wales and Northern Ireland: working together for clean air', HMSO, 2000

11 EC Water Framework Directive (2000/86/EEC) and First Consultation Paper on the Implementation of the EC Water Framework Directive (2000/60/EC)

13.12 Development control and improving the quality of water and air

References

13.12.1 The potential for pollution affecting the use of land will be a material consideration in deciding whether to grant planning permission. Material considerations in determining applications for potentially polluting development are likely to include:

- location, taking into account such considerations as the reasons for selecting the chosen site itself;
- impact on health and amenity;
- the risk and impact of potential pollution from the development insofar as this might have an effect on the use of other land and the surrounding environment (the environmental regulatory regime may well have an interest in these issues, particularly if the development would impact on an Air Quality Management Area or a SAC);
- prevention of nuisance;
- impact on the road and other transport networks; and
- the need, where relevant, and feasibility of restoring the land (and water resources) to standards sufficient for an appropriate after use. (Powers under the Pollution Prevention and Control Act 1999 require an operator to return a site to a satisfactory state on surrender of an Integrated Pollution Prevention and Control Permit).

13.12.2 Local planning authorities should work closely with pollution control authorities when determining planning applications. The timing of applications under the different regimes may vary and the information relevant to an authorisation under Part I of the Environmental Protection Act 1990 may not be available when applying for planning permission. In deciding to grant permission for a development local planning authorities should be satisfied that any remaining pollution concerns are capable of being dealt with under the other pollution regimes.

13.12.3 Planning authorities may use planning conditions or obligations to meet planning aims to protect the environment, where these are pertinent to the development proposed. It is important for planning authorities to understand the scope and purpose of conditions that can be imposed by pollution authorities

so as to ensure that planning conditions neither duplicate nor conflict with such conditions. Proposed development should be designed wherever possible to prevent adverse effect to the environment, but as a minimum to limit or constrain any effects that do occur.

References

13.13 Reducing noise and light pollution

13.13.1 Noise can affect people's health and well-being and have a direct impact on wildlife and local amenity. Noise levels provide an indicator of local environmental quality. The objective of a policy for noise is to minimise emissions and reduce ambient noise levels to an acceptable standard.

13.13.2 There is a need to balance the provision of lighting to enhance safety and security to help in the prevention of crime and to allow activities like sport and recreation to take place with the need to:

- protect the natural and historic environment including wildlife;
- retain dark skies where appropriate; and
- prevent glare and respect the amenity of neighbouring land uses.¹²

Lighting to provide security can be particularly important in rural areas (see 2.9.6).

12 'Lighting in the Countryside: Towards Good Practice', DOE and Countryside Commission, 1997

13.14 UDPs and noise and lighting

13.14.1 UDP policies should be designed to ensure, as far as is practicable, that noise-sensitive developments such as hospitals, schools and housing, that need to be located close to the existing transportation infrastructure to facilitate access, must be designed in such a way as to limit noise levels within and around those developments. Such development should be located away from existing sources of significant noise, including air transport and some industrial activities, or programmed development such as improved or new roads. Policies should also be designed to ensure, as far as possible, that potentially noisy developments are located in areas where noise will not be such an important consideration or where its impact can be minimised. Local planning authorities should adopt policies to prevent potentially noisy developments in areas which have remained relatively undisturbed by noise.

13.14.2 Local planning authorities should adopt policies for lighting, including the control of light pollution, in their UDPs.

References

13.15 Development control and noise and lighting

13.15.1 Noise can be a material planning consideration, for example in proposals to use or develop land near an existing source of noise or where a proposed new development is likely to generate noise. Local planning authorities should make a careful assessment of likely noise levels before determining such planning applications and in some circumstances it will be necessary for a technical noise assessment to be provided by the developer¹³ (see 8.5.5).

13 Technical Advice Note (Wales) 11, 'Noise', 1997

13.15.2 Special consideration is required where noise-generating development is proposed in or near statutorily designated areas or is likely to affect a protected species. The effect of noise on the enjoyment of other areas of landscape, wildlife and historic value should also be taken into account.

13.15.3 Local authorities can attach conditions to planning permissions for new developments that include the design and operation of lighting systems and prevent light pollution.

Planning Policy Wales, Technical Advice Notes (Wales) (TAN(W)s)

Current

- TAN(W) 1 Joint Housing Land Availability Studies (1997)
- TAN(W) 2 Planning and Affordable Housing (1996)
- TAN(W) 3 Simplified Planning Zones (1996)
- TAN(W) 4 Retailing and Town Centres (1996)
- TAN(W) 5 Nature Conservation and Planning (1996)
- TAN(W) 6 Agricultural and Rural Development (2000)
- TAN(W) 7 Outdoor Advertisement Control (1996)
- TAN(W) 8 Renewable Energy (1996)
- TAN(W) 9 Enforcement of Planning Control (1997)
- TAN(W) 10 Tree Preservation Orders (1997)
- TAN(W) 11 Noise (1997)
- TAN(W) 12 Design (2002)
- TAN(W) 13 Tourism (1997)
- TAN(W) 14 Coastal Planning (1998)
- TAN(W) 15 Development and Flood Risk (1998)
- TAN(W) 16 Sport and Recreation (1998)
- TAN(W) 17 Cancelled by Welsh Office Circular 11/99, 'Environmental Impact Assessment'.
- TAN(W) 18 Transport (1998)
- TAN(W) 19 Telecommunications (2002)
- TAN(W) 20 The Welsh Language – Unitary Development Plans and Planning Control (2000)
- TAN(W) 21 Waste (2001)

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Index

Note: This index is intended to highlight the main topic areas and is not intended to be fully comprehensive. Where there are multiple paragraph references for a topic, the main discussion of that topic is indicated in bold.

Access for all	2.9.5, 3.3.2, S4.4 , 8.1.3, 8.4.1, 10.2.6
Agriculture	2.6.2, 5.6.2, 7.6.8, 9.3.8
- agricultural dwellings and/or buildings	7.3.3, 7.6.8, 7.6.10, 9.3.7-10
- agricultural land	2.3.2, S2.8
- farm diversification	7.1.5, 7.3.2-3 , 7.5.2-3
Best Value and Local Government	S1.3 , 2.4.4
Biodiversity (see also Conservation, nature and landscape)	2.2.1, 2.3.2, 2.4.4, 2.9.4, 2.11.1, Ch5 , 9.1.2, 11.1.10, 11.2.1-2
Brownfield land (see also Contaminated land)	2.3.2, 2.5.2, 2.6.2, S2.7 , 2.8.1, 5.1.3, 7.2.2, 7.5.2, 9.1.1, 9.2.6-7, 11.2.2
Built environment/heritage	1.4.12, 6.2.1, 6.4.4, 8.5.7, 8.6.3
Business and Commerce (see Industry)	
Call-in	4.12.1, 6.5.22
Climate	1.4.12-14, 2.2.1, 2.3.2, 5.6.3, 8.1.7, 12.1.4, S12.8 , 13.1.4, S13.2
Coast	1.4.14, 2.3.2, S5.6-5.8 , 11.1.1, 11.1.5, 11.2.1, 12.11.1, 13.2.3-4, 13.3.1
Collaborative working/Cross-boundary co-operation	1.4.15, S3.2 , 8.3.1
Community/Communities	2.3.2, 2.4.1, 2.5.3, 2.9.6, 3.2.2, 3.3.2, 4.1.9, 7.6.2, 8.5.5, 9.2.13, 9.2.21, 9.3.1, 10.1.2
Community strategies	S2.11 , 5.4.2
Conditions	3.1.3, 4.2.3, S4.6 , 4.7.5, 4.10.1, 4.11.1, 5.5.3, 5.5.8, 5.5.13, 6.5.4, 6.5.10, 7.5.2, 7.6.3-5, 7.6.9, 8.3.4, 8.7.5, 10.3.6, 10.3.9, 12.7.2, 12.10.1, 13.7.2, 13.9.2, 13.10.2, 13.15.3
Conservation, historic	2.3.2, 4.4.5, Ch6 , 12.8.10
- conservation areas	1.4.1, 2.9.7, 4.2.1, 4.10.2, Ch6 , 10.2.3, 10.3.13
- listed buildings	1.4.1, 2.9.7, 4.2.2, 4.10.2, Ch6
Conservation, nature and landscape (see also Biodiversity)	2.3.2, 4.2.1, Ch5 , 12.8.10, 12.9.4, 13.1.3, 13.12.1, 13.15.2

Contaminated land	2.3.2, S13.5-13.7
Conversion, alteration, extension of buildings	2.6.16, 2.9.1, 4.2.1, Ch6 , 9.2.6, 10.3.7
Countryside (see Rural/Countryside)	
Crime	2.9.6, 3.3.2, 4.1.4, 10.2.8, 11.1.7, 11.2.2, 13.13.2
Cultural heritage/identity	1.4.8, 2.3.2, 2.5.2, 5.3.4, 5.3.6, 6.1.1, 12.5.1
Design	1.4.14, 2.5.7, S2.9 , 4.1.4, 4.4.3, 5.1.3, 7.5.2, 7.6.9,9.1.2, 9.2.11, 9.2.21, 10.3.3, 12.3.1, 12.7.1,12.9.3, 12.10.3, 13.15.3
Development control (see last section of each topic chapter)	
Development plan (for UDPs see penultimate section of each topic chapter)	
Drainage / Sewerage	2.3.2, 9.2.8, 12.1.4, S12.4 , 13.4.2
Economic development	1.4.11, 7.1.5, 7.1.9, 7.2.2, S7.5-7.6 , 9.2.5, 11.1.4,12.8.4
Employment	2.1.4, 2.3.2, 2.4.2-4, 2.5.3, 5.7.1, Ch7 , 8.3.2, 8.5.4, 8.6.3, 9.1.2, 10.1.2, 10.3.8, 10.3.16
Energy	2.3.2, 2.9.2, 5.7.1, 9.1.1-2, 12.1.1, 12.1.4, 12.5.2, S12.8-12.10
Environmental assessment	1.3.7, 3.3.2-5, S4.3 , 5.5.9, 12.8.8, 13.1.3
Environmental protection	2.3.2, 2.9.4, 5.4.7, 11.1.1, 13.1.2, 13.11.1
Equal Opportunities	1.4.4, 3.3.2, 9.2.17
Europe	1.4.6-1.4.12 , 3.3.2, 5.3.10, 5.5.11, 5.6.1, 7.1.2
Farms (see Agriculture)	
Flooding	1.4.12, 1.4.14, 2.3.2, 5.6.3, 5.7.2, 9.2.8, S13.2-13.4
Forestry	2.6.2, 2.6.16, 4.2.2, 5.5.15, 7.6.8, 9.3.6-10, 12.8.7
Green Belts/wedges	S2.6
Greenfield sites	2.3.2, 2.7.1, 9.1.1, 9.2.6, 9.2.9, 9.2.13, 9.2.21
Hazardous development/substances	1.4.1, 7.5.2
Health	2.3.2, 2.7.1, 3.3.2, 12.13.7-9, 13.6.1, 13.12.1
Housing	2.3.2, 2.4.2, 2.5.3-4, 2.5.6-7, 7.2.1, 7.2.7, Ch9 ,10.2.4, 10.3.15
- affordable housing	2.3.2, 2.4.2, 2.6.16, 2.10.3, 3.3.2, 7.6.10, 9.1.1, 9.2.14-19
- assessment of housing need	9.2.2-5 , 9.2.15, 9.2.19

Industry	2.1.3, 2.3.2, 2.5.5, 4.1.6, 4.2.1, 5.5.1, 5.7.1, 6.1.1, Ch7 , 8.5.3, 10.3.16, 12.1.1, 13.11.2
Jobs (see Employment)	
Leisure (see Recreation)	
Marine	5.7.1, 5.8.1
Material considerations	1.2.5, 2.9.6, 3.1.2, 4.1.2-4 , 5.5.2-3, 9.3.5, 12.13.7, 13.10.3, 13.12.1
Minerals	1.1.4, 4.11.12, 7.1.4
Mixed use development	2.4.2, 2.9.3, 7.1.5, 7.2.1, 7.2.6, 9.1.2, 10.2.4
Noise	2.4.1, 2.9.3, 7.6.2-3, 8.5.5, 8.5.7, 10.3.13, 11.3.2, 12.5.1, S13.13-13.15
Obligations/Section 106 Agreements	S4.7 , 5.5.3, 7.5.2, 7.6.5, 8.3.4, 8.7.5, 11.1.12, 12.10.1, 13.12.3
Open space	2.3.2, 2.4.2, Fig.2.1, 2.9.3-4, 5.4.6, 5.5.18, 6.5.20, 8.5.4, 9.1.2, 9.2.10, 9.2.21, Ch11
Parking	4.4.3, Ch8 , 9.2.11, 9.2.21, 10.2.6, 10.3.3, 10.3.8, 10.3.11
Permitted development rights	S4.2 , 4.3.2, 6.5.19-20, 7.6.8, 12.13.1
Phasing	2.10.3, S3.4 , 3.5.2, 3.5.4, 7.2.1
Pollution prevention and control	2.3.2, 11.3.2, 12.5.1, 12.7.2, Ch13
Precautionary principle	2.2.1, 13.1.4
Previously developed land (see Brownfield land)	
Proximity principle	2.2.1, 12.5.3-4
Recreation/leisure	2.3.2, 2.4.2, 2.5.3-5, 2.6.2, 2.6.16, Fig. 2.1, 3.3.2, 5.6.2, 5.7.1, 6.1.1, 8.3.2, 8.6.3, 9.2.10, 10.2.4, 10.2.10, 10.3.1, 10.3.14, Ch11
Recycling	12.5.2, 12.6.2, 12.7.1
Retail	2.3.2, 2.4.2, 2.5.3, 4.11.2, 4.12.3, 7.2.7, 8.3.2, 8.4.4, 9.3.1, Ch10
Rural/Countryside	2.3.2, 2.4.4, 2.5.6-7, S2.6 , 4.1.1, Ch5 , 7.1.5, 7.6.9-11 , 9.2.18-19 , 9.3.6, 11.2.2, 12.5.1, 12.11.1, 13.3.2
- rural diversification	S7.3 , 11.1.4, 11.2.1, 12.10.2
Search Sequence (Housing)/Sequential approach (Retail)	9.2.7-9 , 9.2.21, 10.2.9-12
Settlements	2.3.2, S2.5 , 2.6.9, 7.2.5, 7.3.2, 7.5.2, 8.6.3, 9.2.7, 9.2.13, 9.2.18, 9.2.21, 9.3.1, 9.3.6

Shopping (see Retail)	2.3.2, 2.5.5, 2.9.1, 7.1.6, 8.1.1, 8.3.1, 9.2.14,
Social inclusion	11.1.3
	1.2.2, 1.4.6-10, 1.4.15, 2.3.1, 2.5.1, 8.1.2,
Spatial planning	12.1.5
Sport	2.3.2, 2.6.2, 2.6.16, 3.3.2, 7.6.9, Ch11, 13.13.2
Telecommunications	2.3.2, 4.2.2, 7.2.2, 7.4.2, 12.1.1-5, S12.11-12.13
Tourism	2.4.4, 5.6.2, 6.1.1, 7.6.9, Ch11
Town and district centres	2.5.5, 8.3.2, 8.4.1, 8.4.5, Ch10, 11.2.2
Transport	1.4.8, 2.3.2, 2.5.2-6, 2.7.2, 2.11.1, 7.2.2,
	7.3.2-3, 7.4.2, 7.5.2, 7.6.2, Ch8, 9.2.7-8,
	10.1.1-2, 10.2.6, 13.14.1
- traffic	2.5.5, 7.6.2, Ch8, 10.2.12, 10.3.8, 10.3.11, 11.3.1
- travel	2.3.2, 2.5.3-5, 2.6.8, Ch8, 9.3.2, 10.2.4,
	10.3.1, 11.2.2
Unstable land	5.6.3, 5.7.2, S13.5, S13.8-13.9
Urban regeneration	2.6.3, 6.4.1, 6.4.12, 11.1.4, 11.2.1
Vacant/under-used land	2.7.2, 7.5.2, 9.2.10
Waste	2.2.1, 2.3.2, Fig. 2.1, 2.9.2, 5.7.1, 7.4.1, 7.6.2,
	S12.1-12.2, S12.5-12.7, 12.8.7
Water and air quality	2.9.4, 8.1.7, 11.1.10, S12.2-12.4, S13.10-13.12
Welsh language	S2.10, 9.2.2, 9.2.8
Woodland/trees	5.2.8-9, 5.4.6, 5.5.13-15, 6.5.18, 7.3.1

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