

**TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED  
DEVELOPMENT PROCEDURE) ORDER 1995 - TO DATE  
PLANNING AND COMPENSATION ACT 1991  
TOWN AND COUNTRY PLANNING ADVERT REGULATIONS 1994  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)  
ACT 1990  
APPLICATIONS FOR PERMISSION FOR DEVELOPMENT**

These are reports and recommendations by Officers for consideration and resolution by the County Planning Authority.

All the applications in respect of the proposals specified in this report will be available for inspection by the Members of the Committee prior to and during the meeting at which the said applications will be considered.

The Background Papers relating to each application, including forms, plans, relevant correspondence, Development Plan and guidance documents are available for public inspection during normal office hours

**ENFORCEMENT MATTERS**

- ENF/2002/0014      Hand painted advertisement sign**
- ENF/2002/0015 -    Fence over 1m high adjacent to Highway**
- ENF/2002/0016      Installation of UPVC windows and UPVC barge board into a  
Grade II Listed Building**

# Denbighshire Unitary Development Plan (UDP) Proposed Modifications Notice of Intention to Adopt the Plan

## 1. Introduction

- 1.1 The purpose of this report is to -
- advise on the representations and objections received during the 6-week statutory period for the published Proposed Modifications to the UDP
  - seek approval to issue a Notice of Intention to Adopt the UDP
  - seek approval to make minor amendments/corrections to the Written Statement which do not make any material changes to the Plan.
- 1.2 This report comprises of
- a covering report setting out the procedure and more detailed responses along with
  - a Summary Report A which sets out a summary of all the representations received and recommended responses.

## 2. Background

- 2.1 The Inspector's Report (IR) into objections to the Deposit UDP was considered by a Special Meeting of the Planning Committee on 19th December 2001 and by Full Council on 15th January 2002. The Council has accepted in full all the Inspector's Recommendations for the reasons given, including those requiring additional changes to the Plan.
- 2.2 The Council approved a list of "Proposed Modifications" which comprised of Proposed Changes, Further Changes, and the Inspector's Recommended Modifications. The Proposed Modifications were placed on public deposit for a 6-week statutory period (from 25th February to 8th April 2002) within which any objections to those Proposed Modifications could be made.
- 2.3 The Council is required to consider all the objections made and decide -
- whether to make further modifications based on objections received, new information or evidence raised
  - whether to hold a second inquiry based on new sites or material issues raised in the objections not properly considered (or not considered at all) at the initial Inquiry
  - whether to issue a Notice of Intention to Adopt the Plan where there is no need for a second inquiry or to publish further modifications.
- 2.4 Attached as Appendix 1 is a summary of the UDP adoption process flow chart which indicates that the Denbighshire UDP has reached a very advanced stage.

### 3. Representations Received

- 3.1 In total 28 representations were received . These comprise-
- 16 representations of support and
  - 12 representations of objection

Following clarification and discussion between officers and objectors three objections will be withdrawn.

- 3.2 The Summary Report A attached sets out a summary of all the representations received and the Council's response and recommendation. The files containing the objections to the Proposed Modifications are publicly available and Members of the Council and public can call in and inspect these and raise any queries or points of clarification.

### 4. Assessment

- 4.1 Valid objections can only be made to the Proposed Modifications. They cannot be made to the contents of the original Deposit Plan nor introduce new issues or sites at this stage which are unrelated to the Proposed Modifications. Officers have assessed each of the objections received against the following considerations -
- the validity and planning merits of the objection
  - whether the objection raises any new or material issues related to the Proposed Modifications but not considered at the initial inquiry and which may require a second inquiry
  - whether there is a need to publish Further Proposed Modifications based on matters raised in the objection.

- 4.2 Set out below is the detailed consideration of four site specific objections at-
- (i) Denbigh Hospital - see Plan 1
  - (ii) Tirionfa / Ysgol Tir Morfa, Rhuddlan- see Plan 2
  - (iii) Site A- at Garwyn Ave/Lon Elan, Meliden- see Plan 3
  - (iv) Land at Former Telephone Exchange, Clawddnewydd - See Plan 5

### 5. Site Specific Objections

#### 5.1 Denbigh Hospital

- 5.1.1 The objection relates to Proposed Modification No 212 MDA 4 Denbigh Hospital

##### **Summary of Objections**

- there is no reference in the Inspector's Report (IR) to major elements of the significant amount of written evidence submitted by the objector
- the IR does not appear to take account of evidence submitted to the Inquiry by the Council, prepared by its Consultants
- in neither respect did the Council seek an explanation from the Inspector, and his further responses to the Council do not seem to reflect either sets of evidence or Council's requests for clarification
- there is no reasonable basis for the Council to propose the modifications as published nor to intend to adopt the UDP in the form proposed

- objector seeks a change to the UDP based on its objection at Deposit suggesting a revised policy MDA 4.

#### 5.1.2 **Council's Response**

It is now standard practice and generally accepted that IRs are produced in the short form. This is specifically referred to in the Inspector's letter attaching his report where he states -

*" My report is in the short form with the cases of objector's and the Council incorporated into my considerations and conclusions ."*

It should be noted that this short form approach to IRs has been supported in the courts where it has been ruled that a Planning Inspector does not have to list /refer to every point made or summarise objection statements and proofs of evidence.

5.1.3 The Council is satisfied in respect of Policy MDA 4 on Denbigh Hospital , and following receipt of the Addendum Report, that the Inspector-

- has considered all the material/main issues raised by the objection
- has provided clear reasoning in drawing up his conclusions and making recommendations
- has provided conclusions and recommendations that are reasonable and acceptable, based on sound and relevant land use planning considerations, and comply with national planning guidance.

5.1.4 Accordingly, the Council did not consider that there was any need to request a fuller report be provided setting out a summary of the cases on this specific site or topic (in accordance with Para 7.3 of the relevant PINS guidance booklet "Development Plan Inquiries"- March 2000). The Council simply requested clarification of certain matters or possible omissions in the IR . Nor was there a need to request a fuller report on any other specific site or topic- including several sites where considerably more written and oral evidence was submitted.

5.1.5 The objector also claims that the Inspector did not take account of the evidence submitted by the Council's own consultants (Chestertons). This is incorrect as the Inspector clearly refers to this in para 10.15.9 in Chapter 10 on MDA 4. For information, the objector lodged multiple objections to several policies and proposals in the Plan. All these have been duly considered by the Inspector at the relevant sections/chapters of his report.

#### 5.1.6 **Conclusions**

Officers consider that there is no substance in the objection as the matters referred to have been adequately covered in the Inspector's Report. It raises no specific matters that have not been previously considered. Neither does it raise new issues or matters requiring a second inquiry or further Proposed Modifications.

#### 5.1.7 **Recommendation**

That the Council does not accept the objection and makes no further Proposed Modifications.

## 5.2 **Tironfa/Ysgol Tir Morfa, Rhuddlan**

5.2.1 The objection relates to Proposed Modification No 171, CF 4 Community Facilities. See Plan 2.

5.2.2 **Summary of Objections**

- the site should remain allocated as a Community Facility under Policy CF4 as shown in the Deposit version of the UDP.
- a Restrictive Covenant applies to the site, which restricts redevelopment of the site to one replacement dwelling.

5.2.3 **Council's Response**

5.2.4 **CF 4 Community Facilities**

- Part of the site is currently being used as a school but this is intended to be relocated to Ffordd Derwen, Rhyl. The premises have not been available to the residents of Rhuddlan as a community facility. Neither the objector nor the Council have identified the need for any specific additional community facilities in Rhuddlan during the progression of the UDP.
- The existing building is large and the objector has not made any suggestions as to what appropriate community facility could be housed on the site. The site itself is on the outskirts of Rhuddlan adjacent to a roundabout with 4 busy roads where any significant increase in pedestrian access to the site could have road safety implications particularly for children and the elderly. It would therefore be more appropriate to improve and/or extend existing community facilities in the centre of Rhuddlan should a need be identified.
- As no evidence was presented at the Inquiry, the Inspector made no reference to any demonstrable need to retain and allocate the site as a community facility. The subsequent sale of the site during the course of the UDP Inquiry led the Inspector to conclude that the redevelopment of the site for housing was entirely appropriate and that the allocations under policy HSG 3 and deletion of the CF4 and REC 3 allocation should reflect this.

5.2.5 **Restrictive Covenant**

- The Council's Legal Department has considered this issue of the Restrictive Covenant and is of the opinion that it is not a material planning consideration as there is a reasonable prospect of the covenant being lifted and the land being brought forward for development within the plan period.

5.2.6 **Conclusions**

Officers consider that the objection raises no new issues for the Tirionfa/Ysgol Tir Morfa site as the deletion of the CF4 allocation was considered and recommended by the Inquiry Inspector. No sound planning reasons have been offered by the objector which would lead the Council to revise the Inquiry Inspector's recommendation that the allocation under policies CF 4 and REC 3 be deleted and that the site be allocated under policy HSG 3 to reflect the current status of the site.

5.2.7 **Recommendation**

That the Council does not accept the objection and makes no further Proposed Modifications.

### 5.3 **Site A- at Garwyn Ave/Lon Elan, Meliden**

Two objections have been made to Proposed Modification No.32 which revised the development boundary (GEN 1) as illustrated in Plan No. 3. One of the objections is accompanied by a petition signed by 84 local residents.

#### 5.3.1 **Summary of Objections and Council's Response**

The grounds on which the objections are made will be considered in turn:

- **Access:** Highway matters were not an issue formally before the inquiry as this was not one of the grounds put forward by the Council in opposing the site. Officers have therefore consulted the Council's Section Manager Highway Developments who has concurred that the site would be suitable for inclusion within the development boundary. Existing estate roads are adopted highways and would be suitable to cater for the small amount of traffic generated from not more than 5 properties. The Highway Authority confirms that it could not uphold objections to the site on highway grounds. Officers therefore consider that an objection on highway grounds is not justified.
- **Flooding:** Although this was not an issue formally before the Inquiry, the Inspector was aware of the hydrology of the area referring to the inspection of the site being carried out after a period of wet weather. Furthermore, the Inspector notes that 'Unlike Site A, the southern portion of Site B is located within the valley bottom floodplain and is surrounded by watercourses'. Officers have since consulted with the Environment Agency who have confirmed that they have no records of previous flooding problems at this location.
- On the basis of a recent section 105 flood risk survey of Prestatyn Gutter the Environment Agency have stated that '*... it would be unreasonable to object to the site's inclusion in the Council's UDP providing any residential development can be sited on higher ground and the lower part of the site susceptible to flooding be left to form the garden area or the 7 m easement required by the Agency to gain access to the Prestatyn Gutter for maintenance purposes*' (a copy of the Environment Agency's letter and plan is attached as Appendix 2). A further plan illustrating the site and floodplain is attached as Plan No. 4
- Officers consider that the principle of residential development on the site has been established but that the number and siting of dwellings, and the location and extent of gardens and maintenance strips and surface water drainage are detailed matters best dealt with at planning application stage. In view of the stance of the Environment Agency and the Inspector's comments it is not considered that the objector's concerns regarding flooding are justified.
- **Wildlife:** Prior to the Inquiry the Pwll y Bont Wildlife Site was re-surveyed by the County Ecologist, the North Wales Wildlife Trust and a consultant representing the developer. It was agreed by all parties that Site A was correctly shown in the UDP as lying outside, but adjoining the wildlife site boundary. The Inspector considered that Site A could be developed without any material harm to the wildlife site from which it is separated by a drainage ditch. If as the objector claims, protected species (Great

Crested Newts) are present on the site, then this will be addressed at the time that any planning application is considered. The Inspector has addressed this issue and concluded that if Great Crested Newts are found, a reassessment of the ecological value of the sites would be required. On this aspect the objector has raised no issues which have not been fully considered by the Inspector.

- **Views:** The Inspector considered that appropriately designed dwellings need not obscure long distance views of the AONB. Whilst the Inspector accepted that views into the wildlife site would be lost, these views are over a dense growth of bramble, weed and scrub and were not considered to be significant. On this aspect the objector has raised no issues which have not been fully considered by the Inspector.
- **Alternative Sites:** The Inspector considered that Meliden was appropriately designated as a main village and that the Plan's provision (on a range of sites) for 50 units, including the 5 or 6 units at Garwyn Avenue, was reasonable. The Inspector rejected several alternative sites including that suggested by the objector at Ffordd Tanrallt on the grounds that there was an adequate range and choice of sites within the area, it would represent unnecessary development of a greenfield site, and be unsustainable particularly for low density housing. Although the Inspector had concerns about the effect of development at Ffordd Tanrallt on highway safety, the Inspector did not see it as being a compelling reason for precluding the site, as is alleged by the objector. On this aspect the objector has raised no issues in terms of alternative sites which have not been fully considered by the Inspector.
- **Number of Dwellings:** The Inspector considered that Site A could accommodate 5-6 dwellings. However this figure is an estimate only and may change in the light of detailed considerations relating to siting, design, easement for maintenance of the ditch and surface water disposal issues. These are best dealt with at planning application stage.
- **Character of Area:** In terms of the relationship of the site with existing development the Inspector concluded that development of the site could be carried out in a manner that would relate well to the existing pattern of development which would not harm the character of the area.

### 5.3.2 Conclusions

- 5.3.3 In conclusion Officers consider that based on the Inspector's consideration of the issues and the subsequent responses of the Environment Agency and the Highway Authority it is considered that the objectors have not raised any fundamental issues which would warrant a second inquiry. The principle of residential development is considered to have been established and that the matters of concern of the objectors and other local residents are more appropriately dealt with at planning application stage.

### 5.3.4 Recommendation

That the Council does not accept the objection and makes no further Proposed Modifications.

## 5.4 **Former Telephone Exchange Clawddnewydd - Plan 5**

5.4.1 The objection relates to Proposed Modification Number 189M: EMP1

### 5.4.2 **Summary of Objection**

The land allocation should be changed to residential to enable a bungalow to be built on health grounds.

### 5.4.3 **Council's Response**

- In assessing objections into the development plan, the health of an objector cannot be considered as a legitimate planning consideration in formulating policies and proposals.
- The Plan already makes provision for housing in the Plan period and further housing on this site is not considered necessary. An extension to the Clawddnewydd development boundary on the opposite side of the road to the objection site was proposed in the Deposit UDP - this was supported by the Inspector. Clawddnewydd also has a relatively high number of modern bungalows.
- The latest planning application on the site was subject to a S106 requiring the relinquishment of the coach repairs/associated parking at the existing village centre site (petrol sales/garage workshop to remain). The s106 is still awaiting completion. The principle of relocating the coach business (or part of it) to the objection site, was accepted to overcome difficulties at the present site and to retain and assist an important local employer.
- Even if the objection site is no longer considered necessary by Cloion Coaches, the principle of employment development has been established and it would be beneficial to retain it to assist rural employment/diversification.

### 5.4.4 **Conclusion**

Officers consider that the issue raised is not a Material Planning Consideration. It raises no new issues or matters requiring a second inquiry or further Proposed Modifications. The site at Clawddnewydd should remain allocated for employment development under EMP1.

### 5.4.5 **Recommendation**

That the Council does not accept the objection and makes no further Proposed Modifications.

## 6. **Overall Conclusions**

6.1 All the representations and objections to the Proposed Modifications have been carefully considered and assessed as to their validity and merits. Where appropriate contact has been made with objectors /their agents or other relevant organisations where any clarification or additional information was needed.

6.2 It is considered that none of the objections -

- contain any merit requiring further Proposed Modifications to the Plan
- raise any new issues or matters related to the Proposed Modifications requiring a second inquiry.

- 6.3 Each of the objections have been considered on their merits as set out above. Should the Council wish to accept any of the objections made then this will require the Council to publish Further Proposed Modifications. These will no doubt generate counter-objections and may lead to a second inquiry. This will lengthen the adoption period considerably - possibly a year or so and continue the current period of uncertainty in dealing with development proposals.

## **7. Next Steps**

- 7.1 If the Council accepts this report and recommendations the next steps are as follows:-

### **7.2 Notice of Intention to Adopt the Plan**

- 7.2.1 The Council publishes a notice of intention to adopt the plan. This in effect provides the National Assembly for Wales (NAfW) with an opportunity to intervene before the Council formally adopts the plan if it considers there is part of the plan which does not comply with national planning guidance or NAfW has an unresolved objection which they wish to sustain. Other objectors may wish to bring to NAfW matters on which they feel aggrieved.

- 7.2.2 If the Council decides to issue a Notice of Intention to Adopt the Plan this gives notice that it intends to adopt the plan after 28 days of the date of that notice.

### **7.3 Adoption**

- 7.3.1 After the 28 days when the Plan is then adopted the Council publishes a Notice of Adoption for 2 successive weeks in the press. There is then a 6 week period from the date of the first Notice when a legal challenge can be lodged on procedural/legal grounds.

## **8. Recommendations**

### **8.1 Recommendations**

- The above report including Summary Report A be approved as the Council's consideration of the objections to the published Proposed Modifications
- based on the objections received there is no need for a second inquiry into objections to the Proposed Modifications
- based on the objections received there is no need for any further Proposed Modifications
- the Council resolves to issue a Notice of Intention to Adopt the Denbighshire UDP and instructs Officers to take the necessary procedural steps to progress the UDP toward adoption
- the Council delegates to Officers the making of minor corrections and changes, particularly the updating of the Written Statement's Introduction Chapter, which do not materially affect the plan's policies or proposals
- that approval of the Planning Committee be ratified by Full Council.

APPENDICES NOT AVAILABLE IN ELECTRONIC FORM

**A REPORT BY THE HEAD OF PLANNING SERVICES**

**GREEN PAPER:  
PLANNING: DELIVERING FOR WALES  
CONSULTATION BY NATIONAL ASSEMBLY FOR WALES**

**1. PURPOSE OF THE REPORT**

- 1.1** To consider the recommendations of the Head of Planning Services in preparing the Council's response to a consultation document issued by the National Assembly for Wales on the future of the planning system in Wales.
- 1.2** The closing date for the submission of comments to the Assembly is 29th April 2002. Copies of the Green Paper have been placed in the Group rooms and the document can be viewed on the Assembly web site ([www.wales.gov.uk/subiplanning](http://www.wales.gov.uk/subiplanning)). A draft copy of my report has been circulated to give Members time to consider the issues.

**2. BACKGROUND**

- 2.1** The Green Paper sets out the Assembly's proposals to modernise the planning system and follows soon after the English Green Paper 'Planning: Delivering a Fundamental Change' which was reported to the Planning Committee on 30th Jan 2002.
- 2.2** The foreword by Sue Essex, Environment Minister stresses the commitment to keeping the fundamental structure of the planning system in place but suggests that the time is right to make changes to the way that it is delivered. The need for change, as set out in the document is reproduced below:

*'We need to ensure that there is confidence in the planning system. People need to be able to find out about the relevant plans and policies and to understand their implications. There is a fundamental requirement for up to date development plans and speedier plan-making. We want to achieve this whilst ensuring that all sections of the community really feel involved in the land use planning process. People also need to know that decisions will be taken openly, fairly and consistently, and be able to see this happening in practice. Overall we want outcomes that give us an improved quality of life, better standard of living and an enhanced environment.'*

- 2.3** The Assembly take the view that the planning system should:

- be open, fair and transparent
- inspire public and business confidence
- deliver improved quality and speed
- integrate with other plans, processes and actions
- meet the objectives in the 'Plan for Wales'

### 3. ASSESSMENT

3.1 The document addresses the three main components of national policy, development plans and development control decisions. For each component the document sets out a number of issues and proposals and each of these is accompanied by a question inviting views and comments. My responses and comments are set out below.

## PROPOSALS

### POLICIES AND PLANS

1. **To continue to develop national planning policy using an open and inclusive process (Para 14)**

Do you agree with this proposal?

Yes:   
No:

**Comments:**

→ *The Assembly should publicly report on the representations made following consultation on policy reviews, in the same way that local planning authorities do on development plans*

2. **To ensure that national policy and technical advice remain as concise and focused as possible (Para 14).**

Do you agree with this proposal?

Yes:   
No:

**Comments:**

- *There must be a greater separation of policy from technical advice*
- *The quality of the technical advice in some of the TANs is poor*
- *Policy and advice must be kept up to date*

3. **Integrate Minerals Planning Policy Wales and Planning Policy Wales when they are next reviewed (Para 17)**

Do you agree with this proposal?

Yes:   
No:

**Comments:**

→ *The mineral industry is an important employer in our local economy. Mineral activity can have serious and wide area environmental effects. It is important, therefore, that policy and advice is kept up to date. It is unacceptable that advice in Wales lags behind England. The Assembly Government should adequately resource the minerals and waste unit.*

4. **The Wales Spatial Plan to draw on sub-regional planning work and to feed directly into development plans (Para 20)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- Collaborative working is essential at a regional and national level
- The sub-regional content is welcomed
- The relative status of regional planning guidance and Wales Spatial Plan should be clarified

5. **Introducing new style Local Development Plans (LDPs Option (b)) (Para 24)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- UDPs should be retained but with revised/updated guidance
- Justification for LDPs (Option (b)) is not backed up by evidence/research
- The paper does not reconcile the conflict between the requirement for community involvement and plan preparation time
- Lengthy preparation process is due to regulations rather than content of plan
- Poor progress on UDP is influenced by inadequate resources, lack of political or management commitment, lack of a dedicated team of officers
- Uncertainty over the form of future development plans will create problems for those local planning authorities who have adopted UDPs
- Concern that if not all settlements are to have proposals maps, the control of development will be difficult and uncertain in the absence of development boundary

6. **Local Planning Authorities to identify in their LDPs areas for which Action Plans should be prepared (Para 29)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- Agreed that LPAs should be allowed to prepare detailed Action Plans for their areas. To some extent this is already happening
- There are several dangers however: **(1)** Action Plans coming into conflict with the LDP, **(2)** proliferation of Action Plans i.e. area master plans, neighbourhood/village plans, design statements and development briefs, creating confusion, **(3)** status and timing of Action Plans unclear, **(4)** adoption of Action Plans without proper consultation and lacking transparency of process

**7. Do you have any further comments to make on the proposals for local development plans, including the degree of detail required in the LDP policies and means of scrutinising LDPs and Action Plans? (Para 33)**

- *Strongly reject the English Local Development Frameworks*
- *Strongly agree that all LPAs should complete their UDPs before embarking on LDPs*
- *The proposals concentrate too much on speed and efficiency rather than 'quality' improvements to both the process and product*
- *Consideration should be given to NAFW preparing standard Development Control type policies thereby allowing local planning authorities to concentrate on local issues*

**8. To require LPAs to prepare LDPs to an agreed timetable (Para 31)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- *The enforceability of the agreed timetable should be explored*
- *The suggestion that LDPs be prepared in 2 years is unrealistic in the absence of revised regulations. Many delays in Plan preparation are beyond the control of the local planning authority*
- *Any timetable should set out the management structure and resource commitment to be provided by the LPA*
- *Good practice workshops should be organised by WAG to promote best practice*
- *There is a role for Syniad etc. to get involved in training staff and members in project management, etc.*

**9. To require an annual monitoring report on LDPs and a full review every five years (Para 37)**

Do you agree with this proposal?

Yes:

No:

**10. To use the power to commission preparation of a Local Development Plan should a Local Planning Authority delay or default on it's preparation (Para 38)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- *Interesting, but is it really practical?*
- *Who pays the cost of consultants if WAG intervene?*
- *Unlikely that another LPA will have the resource base or the knowledge to carry out the work. There would be serious political implications*
- *See comment regarding Question 8 re skills training and management/resource set up*

**11. To require LPAs to give a clear and specific description of how they are involving the community in the LDP (Para 39)**

Do you agree with this proposal?

Yes:

No:

**12. To require LPAs to adopt a UDP before progressing their LDP (Para 40)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- ➔ *Strongly agree with this proposal*
- ➔ *If this requirement is not included then (1) a great deal of public money will have been wasted, (2) it will create confusion, (3) it will result in a further delay in achieving plan coverage in Wales which will be at odds with the commitment of WAG for a plan led system*

**DECISION MAKING AND DEVELOPMENT CONTROL**

**13. Annual report on the speed of decision making and outcomes of the process to be integrated with annual report on the UDP (Para 47)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- ➔ *There is a danger of duplication. The Wales Programme for Improvement (Best Value) requires LPAs to publish Annual Performance Plans. The information required could be incorporated into this document*
- ➔ *Needs to be in place a standard basis for such a monitoring report to ensure consistency and comparability*
- ➔ *One of the problems with performance monitoring is the lack of up to date and reliable information. For example, the WOPS statistics take 9 months to collate and publish by WAG. WAG should look at improving their collection and reporting arrangements. There may be a role here for a joint WLGA/WAG body to co-ordinate collection and reporting on comparison performance information*

**14. Checklist and a standard application form (Para 48)**

Do you agree with this proposal?

Yes:

No:

## 15. Delivery contracts (Para 52)

Do you agree with this proposal?

Yes:

No:

### Comments:

- *There is no evidence backed up by research that clearly demonstrate that a delivery contract would speed up decision making*
- *We are seriously concerned. Agreeing contracts, even with a model contract, will absorb precious officer time and resources which would be better used in handling the application*
- *Often, delays occur in processing major applications because the initial submission is poor or lacks adequate information or where there has been no prior community involvement. This can lead to lengthy delays following re-submission or substantial amendments*
- *The delivery contract system assumes that all applicants seek pre-application advice. In many cases, applications are submitted without prior contact with the LPA or planning officers.*
- *We believe that a delivery contract is an unnecessary additional level of bureaucracy. The enforceability of failure by any party is not clear. Contracts will inevitably involve solicitors and, in our opinion, will make the entire process even more adversarial*
- *The threshold at which contracts will be required on 'major' development is unrealistic (10 or more dwellings/0.5ha or more and commercial development of 1,000sq m / 1ha or more)*

## 16. Statutory consultees to respond within 21 days and charge for the service (Para 53)

Do you agree with this proposal?

Yes:

No:

### Comments:

- *We agree that consultees should respond within 21 days*
- *Quality of responses are sometimes poor*
- *Consultees should not be allowed to charge. The consequences will be serious (1) for the cost of the service and the affordability of the service and (2) it adds another level of bureaucracy regarding discussion on level of charges, administration of charges, recovering charges, etc. and enforceability*
- *Planning application fees have not gone up since 1997. If charges are to be introduced, then each LPA should be allowed to set the application fee level. We believe that a fee structure, similar to the Building Regulation Charges regime, should be adopted. This would remove the need for WAG to set fee levels and give ownership and responsibility to individual LPAs. Fees would then be set to cover the cost of the service and this process should be transparent*
- *If fee levels are to remain centrally controlled, we strongly believe that they should go up in line with **wage** inflation because the most important cost factor in the development control service is salaries*

## 17. Local authorities having the power to refuse to accept repeat applications (Para 55)

Do you agree with this proposal?

Yes:

No:

**18. Certificate for Master Planning large developments (Para 56)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- *We believe that the proposal in England to remove all outline planning consents is a better and simpler proposal*
- *commencement period for start of works or change of use should be reduced from 5 years to 3 years*
- *Time period for appeals should be reduced from 6 months to 3 months along the lines proposed in England*

**19. Power to refuse to accept 2 substantially similar applications on same site (Para 57)**

Do you agree with this proposal?

Yes:

No:

**20. Decision targets . 80% within eight weeks or 16 weeks with an EIA, quarterly reporting on householder , major and minor applications (Para 60)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- *We believe that there is some merit in requiring LPAs to determine 80% of householder applications within 5 weeks, others (non EIA) within 8 weeks and EIA applications within 16 weeks and to amend the appeal regulations accordingly*
- *We agree with the need to report quarterly*
- *We believe that WAG must speed up the collection and reporting of quarterly figures to enable LPAs to make up-to-date comparisons*

**21. Giving reasons for approving planning applications (Para 61)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- *We agree with this proposal subject to acceptance that the reasons for granting, where in accordance with the officer recommendation, are adequately covered in the report to the relevant Committee or in the application file on delegated applications*
- *We do not consider that reasons for approval should be added to each decision certificate as this would conflict with the basis of the planning system being "a presumption in favour of development" and increase bureaucracy*

**22. To improve Assembly casework procedures and provision of information (Para 62)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- ➔ *WAG do not give reasons for calling in applications other than to say the application raises issues of more than local importance*
- ➔ *WAG should (1) give specific reasons for calling-in, (2) should agree a timetable for dealing with the application with the LPA and applicant, (3) should pay the costs of the call-in if there is an Inquiry, (4) should base their decision whether to call-in on the nature/characteristic/policy conflicts and not on the likely or actual decision of the LPA*

**23. Local Development Orders to amend Permitted Development Rights (Para 64)**

Do you agree with this proposal?

Yes:

No:

**24. Permissions and consents to be limited to 3 years (Para 67)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- ➔ *Strongly agree with this proposal*

**25. To work to improve Enforcement procedures (Para 69)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- ➔ *Add and best practice*

**26. To remove Crown Immunity from planning control (Para 70)**

Do you agree with this proposal?

Yes:

No:

**27. To encourage greater use of Pre-Application discussions (Para 72)**

Do you agree with this proposal?

Yes:

No:

**Comments:**

- ➔ *The issue of whether for certain schemes, LPA should be allowed to charge for pre-application advice should be considered*

**28. To encourage use of the Planning Aid service (Para 77)**

Do you agree with this proposal?

Yes:   
No:

**29. Neighbour notification to become mandatory (Para 75)**

Do you agree with this proposal?

Yes:   
No:

**Comments:**

→ *However, there are some instances where neighbour notification is not necessary e.g. development proposals in remote locations*

**30. Information for Customer Care (Para 78)**

Do you agree with this proposal?

Yes:   
No:

**Comments:**

→ *Strongly agree*  
→ *WAG, together with other organisations such as Planning Aid and Planning Officers Society Towards Excellence Project, should/could work together to draw up a range of recommendations covering meeting user needs as far as information etc. is concerned*

**31. To work with WLGA and ELWCa to deliver major developments in member and officer training (Para 83)**

Do you agree with this proposal?

Yes:   
No:

**32. Do you have any further comments to make on the proposals for the decision making and development control system?**

## **IEWS**

**V1. Should we seek statutory status for the Wales Spatial Plan? (Para 19)**

Do you agree?

Yes:   
No:

**Comments:**

→ *Yes, provided (1) the objectives, (2) the form, (3) implementation are clearly set out and agreed. To date, the above has not been clarified or agreed with LPAs*  
→ *Yes, provided it does not take decision making powers away from local government*

**V2. Justification for introducing Business Planning Zones (Para 30)**

**Comments:**

*Concern as to whether "defined parameters" would be sufficiently robust to bring about quality development thereby justifying removing the need for planning consent*

**V3. Establishing a local planning advisory service for local authorities (Para 45)**

Do you agree?

Yes:

No:

**Comments:**

→ *We strongly support this initiative*

**V4. Completion notices could be used to secure completed development (Para 68)**

Do you agree?

Yes:

No:

**Comments:**

→ *LPA's should be permitted to serve Completion Notices or Revocation Notices with minimal compensation. Completion Notices in cases where partly completed developments cause serious harm to the area and completion would comply with an adopted UDP or Local Plan. Revocation Notices, in cases where continued development of an extant consent, would be in clear breach of local or national policy or result in significant harm to interests of acknowledged importance*

**V5. The definition of major development as ten dwellings or 0.5 hectares and over; commercial or industrial floorspace to be more than 1000 square metres or site of over 1 hectare (Para 52)**

Do you agree?

Yes:

No:

**Comments:**

→ *See response to Q15*

**V6. Further delegation to officers, and your views on appropriate targets (Para 58)**

Do you agree?

Yes:

No:

**Comments:**

- *Delegation is about getting the right balance*
- *Members have a legitimate role in giving local/community/Council expression to proposals which are significant in scale, controversial or raise important policy considerations*
- *Officers should be allowed to deal with most applications, most of whom are fairly straight forward, for example, because they comply with adopted policy, not controversial, minor or relatively minor in scale/character*

- *We believe that most LPAs should be able generally to allow at least 75% of their applications to be delegated depending of course on the type of applications received, the nature of objections and whether an up-to-date adopted development plan exists*

**V7. Review planning committee cycles to introduce greater flexibility (Para 59)**

Do you agree?

Yes:   
No:

**V8. How best to secure effective participation before decisions are taken (Para 73)**

- *There is no evidence to demonstrate that public speaking at Planning Committee results in improvements in decisions/outcomes*
- *We are not persuaded by the arguments that public speaking should be allowed*
- *In our opinion, one should take a more holistic view. For example, by looking at (1) access to information at Committee, (2) accessibility to advice prior to Committee, (3) facilities for the public at Committee chambers, (4) bilingual translation facilities, (5) audibility, quality of Planning Committee reports and whether they are easily understood and contain relevant information, (6) the availability of Committee reports, (7) the use of visual/IT aids in Committee meetings, (8) access for people with physical disability, (9) existence of legal advice at Committee, (10) the clear recording of decisions by the Chair or Committee Clerk, (11) the clear identification of which members are entitled to speak and vote or speak only, etc.*
- *To simply focus on public speaking and ignore all the other essential parts of a quality and transparent Committee system misses the point*

**V9. Should planning fees be ring-fenced? (Para 86)**

Do you agree?

Yes:   
No:

**Comments:**

- *In our view, consideration should be given to development control operating along similar lines to the Building Regulation Charges system. Building Regulations operate as a business unit with a trading account. Charges are set in accordance with a model scheme. Authorities can vary the charges up or down but are not entitled to make a loss or profit exceeding 10% either way over a 3 year trading cycle. Building Regulations submit annual trading returns to the National Assembly.*
- *Planning fees, if they are not ring fenced should be increased in line with wage inflation (not standard rate of inflation) and they should be reviewed annually. Fees have not gone up since 1997 and this we find is unacceptable, particularly at a time when budgets have been cut and costs have increased*
- *If planning fees are ring fenced, the implications for resourcing other non fee earning services such as policy and conservation should be considered*

**V10. What is your preferred option for independent scrutiny of applications in which local authorities have an interest? (Para 79)**

Option a:   
Option b:   
Option c:

**Comments:**

- ➔ Existing scrutiny levels are not deeply flawed
- ➔ An application by a local authority to be implemented by the authority, in partnership or otherwise, which is a departure from the development plan, should be referred to WAG
- ➔ We do not believe that Options a or b are necessary. They would add an unnecessary bureaucracy and slow the system down. They would also take away decisions which should be taken at the local level

**V11. What changes would make a significant improvement in ensuring access for all? (Para 76)**

**Comments:**

- ➔ The requirement of the Disability Discrimination Act 1995 of which an important section comes into force in 2004 will require public and private authorities to provide reasonable adjustment to access to services and facilities
- ➔ access to services and facilities for all should be an integral part of the Wales Improvement Programme (Best Value) and WAG may consider in co-operation with POSW coming up with good practice guide/performance measurement indicator

**V12. Please identify, in order of importance, the proposals in “Planning: delivering for Wales” which you think would make the most significant improvement in current practice or procedures to better enable the planning system to deliver for Wales**

1. Not applicable. See note below
2. Not applicable. See note below
3. Not applicable. See note below
4. Not applicable. See note below
5. Not applicable. See note below

**N.B.** It is not considered helpful to attempt to rank the proposals in the Green Paper in such a simplified manner as the proposals are inter-related.

**4. CONCLUSIONS**

- 4.1** “Planning : Delivering for Wales” is, to some extent, an opportunity missed. The LDP, whilst much better than the English LDF, will not deliver results in our view. To speed up progress with development plans requires detailed attention to the plan process, to resourcing, to management and best practice.
- 4.2** Delivering real improvements requires action to remove obstacles. We are very disappointed that there are no proposals to promote e-government in the paper and to help resource initiatives.
- 4.3** There are no proposals to co-ordinate information gathering, analysis and reporting on a National (Wales) level. The performance and comparison

regime is poor or non-existent. WAG is not delivering data outputs e.g. household and population projects to help local authorities.

- 4.4 The planning fee structure/regime requires a radical approach to free up local authorities.
- 4.5 Many of the proposals such as delivering contracts, consultees allied to charging, etc. will add to bureaucracy and slow the system down or make it unworkable.
- 4.6 Planning system is being asked to take on board additional concerns e.g. health risks (paragraph 54) when clearly this is a matter for WAG at a national level and/or is duplicated by other controls.
- 4.7 There are positive proposals in the document. The fact that a Planning document has been produced demonstrates that the importance of the service is recognised. Our view is that the proposals as a whole are not as radical as they have been made out. One gets the feeling that we are only tinkering at the edges.

## 5. RECOMMENDATIONS

- 5.1 **That this report be agreed as the Council's formal response to the National Assembly's Green Paper "Planning : Delivering for Wales".**

## REPORT BY HEAD OF PLANNING SERVICES

# APPEAL DECISION UPDATE

### 1. PURPOSE OF REPORT.

- 1.1 To advise members of recent appeal decisions.

### 2. BACKGROUND

- 2.1 The report on the delegation scheme and procedures considered at the Planning Committee on 31st October 2001 and subsequently approved at the County Council meeting on 27th November 2001 proposed that a summary of appeal decisions be reported on a quarterly basis to a set format. Appeal decisions received for the first quarter of 2002 are set out in the **attached appendix**.
- 2.2 As requested by Members we have included a column indicating the original decision level (Committee or Delegated) and the officer recommendation.
- 2.3 Whilst we are happy to answer questions on the appeal decisions at the Planning Committee, if you have any matters of detail that you would like to discuss please contact Mark Dakeyne or Ian Weaver prior to the meeting.

**This report is for members information.**

**DENBIGHSHIRE PLANNING APPEALS DECISIONS**  
**LIST OF APPEAL DECISIONS FROM JANUARY - MARCH 2002**

DESCRIPTION	DECISION LEVEL/ RECOMMENDATION	LOCATION	TYPE	DECISION DATE	APPEAL DECISION	COST	KEY ISSUES
Display of 1 internally illuminated advertising display sign	Committee - Refusal	<b>2 Margaret's Drive Rhyl</b>	Written Reps	04.03.2002	ALLOWED	N/A	Proposed signs was refused due to the visual impact in the street scene which was felt to be contrary to Policy GEN13 of the UDP and TAN 7
Erection of 1 dwelling and construction of new vehicular access	Committee - Refusal	<b>Marllwyn Groesffordd Marli Abergele</b>	Public Inquiry	07.03.2002	DISMISSED	N/A	Infill proposal contrary to Policy HSG5 as not in identifiable group of 6 or more. Also out of scale with neighbouring plots.
Replacement Windows to a Listed Building	Delegated - Refusal	<b>Rhydorddwy Goch Dyserth Road Rhyl</b>	Hearing and Public Inquiry	22.03.2002	APPEAL WITHDRAWN	FULL AWARD OF COSTS TO THE COUNCIL (Informal Hearing being aborted)	Informal Hearing aborted on the day due to lack of case by appellant. Subsequent Public Inquiry arranged, applicant withdrew appeal a couple of days before Inquiry. Decision on application for costs by the Council awaited. re: The Inquiry.
Occupation of Caravan/mobile home as a manager's residence	Delegated - Refusal	<b>Clwyd Lofts Upper Denbigh Road St Asaph</b>	Public Inquiry	26.03.2002	DISMISSED	COSTS TO THE COUNCIL REFUSED	No justification for residential use on site. Harmful impact on visual amenity.
Installation of a replacement shop front.	Authorisation granted for Enf. Notice at Planning Committee 27.6.02	<b>79 High Street Prestatyn</b>	Written Reps	27.03.2002	DISMISSED - ENFORCEMENT NOTICE UPHELD	N/A	UPVC shopfront is considered to be harmful to character and appearance of Conservation Area. Time for compliance extended from 9 months to 12 months

**A REPORT BY THE HEAD OF PLANNING SERVICES**

**DATE OF SITE VISITS**

**1. PURPOSE OF REPORT**

- 1.1 To advise Members of the likely date of any Site Visits requested by the Planning Committee.

**2. DATE OF THE SITE VISITS**

- 2.1 In consultation with Legal and Administration, it has been decided that the **Wednesday 1st May 2002** is most suitable. This date has been provisionally booked.
- 2.2 You are advised, therefore that any site visits arranged today will take place **On Wednesday 1st May 2002 (times to be advised).**

**3. MEMBERSHIP OF THE SITE VISIT PANEL**

- 3.1 This will depend on Political Balance and will include the Chair and Vice Chair of the Committee and the relevant Local Member(s)

**4. RECOMMENDATION**

- 4.1 **That Members agree to the Site Visits being held in the afternoon of Wednesday 1st May 2002**