



Ein cyf/Our ref: CAS-74411-J6S9
Eich cyf/Your ref: Conwy Replacement LDP

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25th January 2019

Dear Sir/Madam,

CONWY COUNTY BOROUGH COUNCIL LOCAL DEVELOPMENT PLAN REVIEW

CONSULTATION PAPER 1 – OUTLINES THE PRIORITY ISSUES FACING CONWY AND SUGGESTS A VISION AND SET OF OBJECTIVES FOR THE RLDP

CONSULTATION PAPER 2 – OUTLINES THE STRATEGIC GROWTH LEVEL, THE SETTLEMENT HIERARCHY AND THE SPATIAL DISTRIBUTION

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which was received on 17th December 2018.

We have reviewed the consultation documentation and have the following comments to make. Please note that our comments are without prejudice to any comments we may wish to make when consulted on any subsequent strategy consultations. At the time of any other consultation there may be new information available which we will need to consider in making a formal response.

We note the background papers and we understand that these consider in more detail changes in national policy, other key contextual changes and the success or failure in the implementation and delivery of various elements of the LDP. We have considered the Consultation Papers and have concerns regarding the wording of Background Evidence Base Paper 35. "...*assess the potential for development in the flood risk area by promoting innovative design solutions*", as discussed further below.

NRW would advise caution in promoting innovative designs which are contrary to TAN15 and likely to lead to NRW raising significant concerns to any allocations which are shown to flood contrary to para. A1.14 of TAN15: Development and Flood Risk (July 2004) when climate change and overtopping/breaches of defences are considered

Consultation Paper 1: Priority Issues, Vision and Objectives

Chapter 3

We note and commend Conwy County Borough Council's (CCBC) commitment to make any changes to the Conwy RLDP based on any changes made to the final PPW

We note that CCBC will ensure that there is a clear thread from national guidance and that the key policy subject areas are centred around the Wellbeing of Future Generations Act goals.

Chapter 5

5.3 Proposed RLDP objectives:

We note the objectives relating to our own consultation topics list, and concur with their inclusion in the LDP.

We support the inclusion of Strategic Objective 13 (SO13) Coastal Areas.

We also fully support the additional inclusion of Strategic Objective 15 (SO15) relating to air, soundscape, light and water environment.

We believe that the planning system has a fundamental role to play in helping achieve the objectives of the Water Framework Directive (2000/60/EC), not just in protecting waterbodies (*i.e.* no deterioration) but in providing enhancements to help achieve Good Status in the future. Please note that the latest data we hold for Conwy that lists which waterbodies are failing to meet Good Status under the Water Framework Directive can be found at the following site:

<http://waterwatchwales.naturalresourceswales.gov.uk/en/>

Please note that there is a typo within the Green infrastructure and Biodiversity section: "*Conwy accommodates Special Landscape Areas (SPAs)*" should read Special Protection Areas instead.

Chapter 7

Background Papers

BP4: Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) – We fully support the need to carry out an SA/SEA. Please note that the SA/SEA is an iterative and ongoing process, as the baseline data is constantly evolving, and other plans and programmes are emerging as a result of new legislation. The SA/SEA should be kept under review throughout the RLDP process. Please see our previous comments on this topic dated 27th September 2018 your reference (44061-001i3), attached for convenience.

BP5: Habitat Regulations Appraisal - We fully support the need to carry out a HRA and note that this is in progress and will be available for the preferred strategy consultation (Summer 2019). NRW would wish to reiterate our comments made on the draft scoping report for the SA/SEA (your ref: 44061-001i3) dated 27th September 2018 advising you of the preliminary ruling by the Court of Justice of the European Union (Ref. C-323-17, dated 12th April 2018), which established that during the screening stage of the Habitat Regulations Assessment process mitigation measures

should not be taken into account in deciding whether an Appropriate Assessment is required.

BP 34: Conwy Strategic Flood Consequence Assessment

As your authority will be aware, Planning Policy Wales (PPW) along with the supporting Technical Advice Note 15, Circulars and Policy Clarification letters would be applicable when developing or replacing a LDP. It is understood that TAN15: Development and Flood Risk is likely to be updated later this year by Welsh Government and that a public consultation will begin soon.

It is our understanding that the updated TAN15 is likely to give much greater weight to the production of Strategic Flood Consequences Assessments (SFCA's) and their role in the LDP process. The new TAN15 will be looking for these to be more robust and wider-thinking about how to manage risks and consequences across the locality. SFCA's will need to provide information on current and future flooding risks, using the best available information. All sources of risk will need to be considered. Flood risk management plans, shoreline management plans and Area Statements will also need to be considered in the SFCA. The updated TAN15 is therefore likely to have implications on Conwy's RLDP and your site allocations process.

BP35: Flood Risk and Development opportunities to the East of the county borough – in progress, will be available for the preferred strategy consultation (summer 2019). We have concerns regarding the text used “...*assess the potential for development in the flood risk area by promoting innovative design solutions*”. The current TAN15 advises on the onset of flooding for a specific source of flood risk and threshold frequency. We would also remind you that para. 5.3 of the current TAN15 advises that all developments are subject to the requirements of Section 7 and Appendix 1 of the TAN. As such we would advise caution in promoting innovative designs which are contrary to TAN15 and likely to lead to NRW raising significant concerns to any allocations which are shown to flood contrary to para. A1.14 of the TAN, when climate change and overtopping/breaches of defences are considered.

Consultation Paper 2: Strategic Growth and Spatial Distribution Options

Foul Drainage

The first option for development discharging domestic sewerage should be to connect into the public main sewer where it is reasonable and practicable to do so.

Please note the following foul drainage infrastructure capacity issues:

Penmaenmawr

The sewage outfall from the sewage works serving this village has been shown by CEFAS to carry faecal bacteria towards the designated shellfish beds of the Conwy Estuary. Any development requiring sewage discharge at this location would need to go hand in hand with investment in sewage infrastructure to protect the shellfish water quality.

Pensarn / Abergele / Llanddulas

An increase in sewage flow from Llanddulas, Pensarn and Abergele would increase the pumping requirements at Pensarn SPS. This station has had historical problems with its operation and further demand on the system may require significant investment

in the equipment. The extra storm flows would also need to be assessed to ensure that coastal storm discharges do not increase beyond existing restrictions.

Eglwysbach

The village sewage works substantially increase the phosphate loading on the Afon Hiraethlyn, which is a concern under the Water Framework Directive.

Flood Risk

Please be aware that a Joint Improvement Programme has been established with local planning authorities in North Wales, which is overseen by Natural Resources Wales (NRW) and the Planning Officers Society Wales (POSW) with support from the Welsh Government. The Project will identify areas for improved engagement between NRW and the local planning authorities.

As part of the project, standing advice has been prepared on how to approach highly vulnerable development located in areas of high flood risk and NRW are looking to apply this advice to all LPA's.

Section 6 of TAN15 provides a precautionary framework to guide planning decisions and sets out the justification tests that should be applied for all new development within different flood risk zones. Advice in paragraph 6.2 recommends that new development is directed away from Zone C and specifically identifies "*that highly vulnerable and Emergency Services in zone C2 should not be permitted.*" This planning policy position is reiterated in the Welsh Government's Chief Planner's letter to all Local Planning Authorities dated 9th January 2014.

Given the above planning policy NRW will therefore not review FCAs for highly vulnerable and emergency services developments located in DAM Zone C2, unless written confirmation has been provided by the LPA that they believe there are overriding reasons for them to consider granting the application contrary to TAN15 Policy.

Sites of Special Scientific Interest (SSSI)

SSSI are of national importance and there is a duty on all public bodies to take reasonable steps to further the conservation and enhancement of SSSI. PPW10 (6.4.17) states that 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.

Biodiversity

PPW10 (6.4.20) also recognises the importance of non-statutory sites which provide links from one habitat to another. This makes an important contribution to the conservation and enhancement of biodiversity and quality of local environment.

It will be important for the RLDP to consider how green infrastructure will be incorporated. It should take account of the habitats present and seek to minimise impacts while retaining as much habitat as possible through careful implementation and design.

Protected Species

Growth areas may contain European Protected Species (EPS) or habitats with potential to support populations of EPS.

EPS are given the highest legal protection through British and European legislation. Where an EPS is present, a development may only proceed under a licence currently issued by Natural Resources Wales.

Land Contamination and Sensitive Groundwaters

PPW10 takes a precautionary approach to land affected by contamination. Before the principle of development can be determined, land contamination should be investigated to ascertain whether certain development should be precluded due to environmental risk.

Landscape

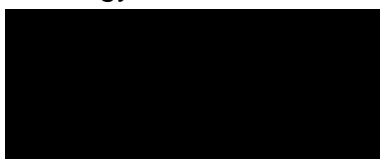
NRW wish to highlight that the setting of Snowdonia National Park is a material consideration and that PPW10 (5.24) requires the visual effects of development to be carefully considered.

Our comments above only relate specifically to matters that are listed in our 'Consultation Topics' document (September 2018) which is published on our website: <https://cdn.naturalresources.wales/media/686847/dpas-consultation-topics-august-2018-eng.pdf?mode=pad&rnd=131819256840000000>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

We will be happy to provide further advice and guidance in the latter stages of the SA/SEA process and look forward to working with you on the replacement LDP.

If you have any queries, or if you require any further information, please do not hesitate to contact us at the above address.

Yn gywir / Yours faithfully,



Ruth Prichard
Development Planning Advisor
Development Planning Advisory Service