

Unitary Development Plans : Clarification on Taking Account of New and Emerging National Planning Policy and Technical Guidance

Section 1.1 of '*Planning Policy Wales*' 2002 clarifies the status of issued national planning policy, technical guidance and Ministerial Statements. National guidance on taking account of 'new information' in emerging unitary development plans (UDPs) is contained in paragraphs 4.6 & 4.7 of '*Unitary Development Plans*' 2001. This statement provides further clarification in relation to when new and emerging national planning policy should be taken into account by a local planning authority (lpa) **following deposit of its UDP but prior to adoption.**

1). where draft national planning policy or technical guidance has been issued for consultation but prior to its issue in final format:

- whilst it would not always be reasonable in every case to expect an lpa to incorporate this prior to adoption, lpas are strongly advised to consider implications of any new policy or guidance that is likely to issue prior to plan adoption. It is essential that lpas discuss implications for their emerging UDPs of the draft planning policy or guidance with the Assembly Government's Planning Division. The lpa should always take any necessary action to avoid any natural justice issues;
- the inquiry Inspector would have regard to any consultation drafts of revised or new policy or technical guidance that were drawn to his/her attention (these would be accorded less weight than issued planning policy / guidance).

2). where new or revised national planning policy or technical guidance has issued in final format:

- it is generally the responsibility of the lpa in the first instance to consider the need to take account of it. A range of actions and situations are outlined below:

- prior to the public inquiry stage: the lpa should incorporate any necessary changes by means of informal pre-inquiry changes which can then be considered at inquiry and formalised by means of post-inquiry modifications;
- Inspector / Inspector's Report:
 - a) *During the inquiry:* the Inspector will take account of any published national planning policy and technical guidance up to the time of the close of the inquiry
 - b) *Following the inquiry:* if new policy or technical guidance is issued between the close of the inquiry and the delivery of the Report to the lpa, then the lpa should consider it and take any necessary action to avoid any natural justice issues. However, if a consultation document that was extant were

simply confirmed post closure then an Inspector would normally increase the weight accorded to it to 'standard' and take it into account. Minor new points in new guidance that could not cause prejudice could also be incorporated in the report. Conversely, matters of fundamental significance could only be dealt with by re-opening the Inquiry if it would be nonsensical to continue to report without taking them into account or, if not, by referring these explicitly to the Ipa to take account of;

- post-inquiry / post Inspector's Report delivery : the Ipa should consider implications of any new planning policy & technical guidance that has issued, or is likely to issue prior to adoption. The Ipa can advertise any necessary changes by means of statutory proposed modifications to the deposit UDP; the possibility of a re-opened inquiry may need to be considered where objections raise matters that were not at issue at the initial inquiry.
- Assembly Government objections: the Ipa should be informed by any objections made and not withdrawn by the Assembly Government on the emerging UDP, in relation to the plan not being in accordance with new or revised national policy or technical guidance;
- Assembly Government intervention: by means of Direction to Modify the UDP prior to adoption will only occur if the Assembly Government considers the emerging plan to be 'unsatisfactory' (s.17 of the T&CP Act). This action is most likely:
 - a) where there are, either objections made by the Assembly Government to the deposit plan which are supported by the Inspector and not withdrawn, or objections the Assembly Government makes to the proposed modifications to the deposit plan which are not withdrawn; and/or
 - b) where newly issued national planning policy or technical guidance relates to matters that the Assembly Government considers to be of fundamental importance within the area of the Ipa.