

Amgylchedd a Datblygu Cynaliadwy
Environment and Sustainable Development



Llywodraeth Cymru
Welsh Government

Lucie Taylor
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Newport City Council
Civic Centre
Newport
NP20 4UR

Our Ref: qA983510

Your Ref: Rep No: 244

Date: 25th May 2012

Dear Lucie,

**Newport Local Development Plan – Deposit:
Welsh Government Representations**

Thank you for your letter of 12th April 2012 including copies of the Deposit Local Development Plan (LDP) and accompanying documentation.

The matter of whether a plan is considered 'sound' will be for the appointed Planning Inspector to determine. I have considered the Deposit LDP in accordance with the consistency/coherence and effectiveness tests, and principally in accordance with whether satisfactory regard has been given to national planning policy (test C2). The Welsh Governments representations are separated into 4 categories which are supported with more detail in the attached annex.

Category A: Objection under soundness tests C2, CE2: Fundamental issues that are considered to present a significant degree of risk for the authority if not addressed prior to submission stage, and may have implications for the plan's strategy:

- (i) Housing Provision
- (ii) Affordable Housing Target
- (iii) Scale of Employment Allocations
- (iv) Deliverability of Employment
- (v) Mineral Safeguarding and Apportionment

Category B: Objections under soundness tests C2, CE1, CE2: Matters where it appears that the deposit plan has not satisfactorily translated national policy down to the local level and there may be tensions within the plan, namely:

- (i) Affordable Housing Thresholds
- (ii) Delivering Infrastructure

(iii) Monitoring

Category C: In relation to soundness tests CE2, CE3, CE4: whilst not considered to be fundamental to the soundness of the LDP, we consider there to be a lack of certainty or clarity on the following matters which we consider we can usefully draw to your attention to enable you to consider how they might be better demonstrated:

- (i) Gypsies and Travellers
- (ii) Major Road Schemes
- (iii) Policy Wording

Category D: Matters relating to clarity of the plan generally which we consider may be of assistance to your authority and to the Inspector in considering suitable changes:

Please refer to annex.

It is for your authority to ensure that the LDP is sound when submitted for examination and it will be for the Inspector to determine how the examination proceeds once submitted.

You should consider how you could maximise the potential of your LDP being considered 'sound' through the examination process. An early meeting is considered important to discuss matters arising from this formal response to your deposit LDP and I would encourage you to contact me to arrange a mutually convenient time.

Yours sincerely

Mrs Lydia Haskey
Senior Planning Manager
Planning Division
Welsh Government

Annex

Category A. Objection under soundness tests C2, CE2: Fundamental issues that are considered to present a significant degree of risk for the authority if not addressed prior to submission stage, and may have implications for the plan’s strategy:

A i Housing Provision

Planning Policy Wales (PPW) (paragraph 9.2.2) states that the latest Welsh Government (WG) population and household projections should form the starting point when assessing housing provision for the plan. In this case, the WG 2008 projections are the most recent. Converting the 2008 household projections into dwellings (using a conversion factor of 1:1.04) indicates 7,421 dwellings are required over the plan period 2011 to 2026. It is for the LPA to consider the appropriateness of these projections for their area, reflecting the criteria listed in PPW (paragraph 9.2.1) including the key issues identified in the plan. All local authorities have access to the model and data and can re-run to reflect local circumstances.

The ‘Housing Forecasts Background Paper’ (April 2012) states that the first five years of the plan (2011-2016) are based on the 2008 WG projections, 2,500 units (500 p/a) to reflect the ‘realities of the current economic situation’. The second phase (2016–21) is based on the more ‘optimistic’ forecasts of the WG 2006 projections, 3,250 units (650 per annum). The final phase of the plan is also based on the WG 2006 projections, 3,000 units (-250) (600 per annum). The stated reason for the reduction of 250 units in the final phase is to take into account ‘the lower growth in the first five years, feeding through to subsequent years’.

While the growth and regeneration aspirations of the plan are supported, the justification for this ‘mismatch’ of methodologies is illogical and not supported by robust evidence. Accepting the WG 2008 projections methodology at the start of the plan period implies that the local authority agrees the methodology and data. Whilst the methodology between projections has not varied significantly, there are differences in the data and assumptions behind that data, i.e. migration rates. Consequently, it is not appropriate to pick and mix between different projections. PPW states that the latest projections should form the starting point which would result in a lower provision than provided for in the plan. The evidence therefore needs to justify why a higher level is appropriate. It does not.

There is a major disparity between the housing requirement in Policy SP10 and the ‘main sources of housing land’ set out in Chapter 5. Policy SP10 makes provision for 8,750 dwellings, Chapter 5: Housing identifies the main sources of housing land. The table (below) has been produced to better understand the total provision within the plan.

Units to be delivered in the plan period (2011-2026). This calculation is based on the information and tables in Chapter 5.	
Commitments	3245
S106	303
Sites under construction to be completed in plan period (likely)	4630

completions in plan period)	
Windfall Allowance	750
New Housing Allocations	2775
Small Sites (<i>estimated from 2010 JHLA Study see below comments</i>)	726
Total allocation over the plan period	12,429

The plan makes provision for a total of 12,429 dwellings, 30% above the 8,750 provision set out in SP10. Housing provision set out in policy should be matched by the total provision identified in the plan itself. It does not. This is a serious concern. In addition, the total provision is in excess of 5,000 dwellings above the WG 2008 projections (68%). Whilst we support growth and regeneration aspirations the total provision is extremely excessive given the latest WG 2008 projections which indicate a need for 7,421, dwellings. There is no evidence to support such a significant deviation above our latest projections. Currently there is:

- Insufficient evidence to support the level of housing provision.
- The relationship to employment provision and the overall strategy is unclear.
- The rationale/need for allocating an additional 2775 units is absent.
- It is not clear how new allocations support the delivery of existing commitments, in particular the large brownfield regeneration sites at East Newport which are the focus of the spatial strategy (paragraph 2.5, p13).
- How the phasing of housing, 2,500/3,250/3,000 units will be controlled/implemented.
- There is no specific flexibility/rationale for a set level in Policy SP10.
- No estimate for small site provision has been made. (Paragraph 5.9 of the plan states that 274 small site plots had permission at 1st October 2011. The 2010 Joint Housing Land Availability Study (JHLA) states that the small site provision is 242 units (2010-2015) which extrapolated over the plan equates to 726 units.

The plan does not appear to deliver the strategy, a focus on regeneration, culture and heritage through maximising the use of brownfield land). There are a variety of sites contained in the plan, both brownfield and greenfield of significant scale and it is not clear how a regeneration strategy will be delivered with such a plethora and mix of sites, lacking any prioritisation. It must be questioned whether a more appropriate approach would be to deliver existing commitments before allocating additional sites which could dilute a regeneration based strategy. Many of the key regeneration sites in East Newport are commitments and not allocations.

A ii Affordable Housing Target

PPW (paragraph 9.2.16) states that LDPs must include an authority-wide target for affordable housing (expressed as a number of homes) based on the Local Housing Market Assessment (LHMA) and identify the contributions that the policy approaches identified in the plan will make to this target. A Joint LHMA (2007) has been undertaken, a combined assessment between Torfaen, Newport and Monmouthshire. The level of need should be

expressed in the plan, it currently is not. There is also no quantification of any backlog of need, how this relates to the current need and how this will be carried forward.

Chapter 8 gives some additional information for the new allocations; however it is confusing and does not relate to the target set out in policy H4. For example, sites H1(49) & (50) state that provision “will be in line with planning obligations” while other allocations such as H1(52) & (53) give a target of 30%, H1(54) “to be negotiated with the NCC”, H1(55) & (56) “to be negotiated in line with the DAT”.

It is not clear from the plan how many affordable housing units each site will deliver, both commitments and allocations. The plan should have a clear target and set out the sources of contributions to meeting this target.

It is concerning that the supporting text of Policy H4 refers to SPG on Affordable Housing (2004) produced for the UDP, which contains different thresholds to those set out in the LDP policy. Similarly Chapter 8 refers to the Planning Obligations SPG (2007), also prepared for the UDP. Chapter 14 states that these documents are of ‘high’ priority for updating, however, no timescales have been given.

A iii – Scale of Employment Allocations

There is a major disparity between the employment land requirement in Policy SP17 and the total allocated land set out in Policy EM1: Employment Land Allocations and EM2: Regeneration Sites. The Employment Context Background Paper (2011) concludes that 11ha per annum is considered to be a robust long term fixed projection of future employment land requirements in Newport (p18). Over the plan period, the employment land requirement is 165ha, this is set out in Policy SP17. The policy and provision of employment land should match, it does not.

However, the total allocation in Policy EM1 and EM2 is in excess of 685ha. The quantity allocated is excessive and unjustified through any evidence. It is not clear what the priorities are in terms of employment, how this links to the housing provision and which employment sites are required to deliver the strategy. In addition, further clarification is required to determine the total number of hectares of employment land allocated under policy EM2. There is no evidence to support a figure in excess of 685 hectares provided in the plan, as set out below.

Policy EM1	Total hectares of employment	Policy EM2	Total hectares of employment
Duffryn	78ha	Llanwern Steel Works Eastern End	51ha
East of Queensway Meadows	142ha	Phoenix Park	2ha
Celtic Springs	6ha	Llanwern Former Tipper Area	122ha
Solutia	52ha	Old Town Dock	Unable to determine from policy (includes B1)
Newport Docks	204ha	Godfrey Road	Unable to determine from policy (includes business)
Gwent Europark	16ha	Crindau	Unable to determine

			from policy (includes B1)
Port Road, Maesglas	10ha	Whiteheads	Unable to determine from policy (includes B1, B8)
Land off Chartists Drive	2ha	Monmouthshire Bank Sidings	Unable to determine from policy (includes B1, B8)
		Novels (Alcan)	Unable to determine from policy (includes B1)
TOTAL	510HA		*175ha
<i>*this figure excludes sites listed where the exact employment allocation is unclear</i>			
Total Employment Allocation = in excess of 685ha			

There appears to be further disparity when comparing the figures in the Employment Context Paper to those in Policies EM1 and EM2. Paragraph 7.2, p20 states that at of 31st March 2010, there is over 258ha of available employment land in Newport which does not correspond to the 165ha in SP17 or the 685ha in policies EM1 and EM2. In addition the total hectares listed for some of these sites in the background paper do not correlate to the total hectares indicated in the policies. Some examples:

- Policy EM1, East of Queensway Meadows is 142ha, the Employment Context Paper states 35.4
- Policy EM1, Celtic Springs is 6ha, the Employment Context Papers states 7.7ha
- Policy EM1, Gwent Euro park is 16ha, the Employment Context Paper states 22.20ha

A iv Deliverability of Employment

Many employment allocations have significant constraints (Employment Context Paper, Chapter 7) and in several cases these constraints are likely to affect the timing, viability and the developable area, albeit some sites appear to be at a greater risk than others. This background paper categorises the currently available sites in four ways, prestige sites (191ha), good industrial (28ha), local industrial (34ha) and central (5.6ha). Appendix 1 lists the sites and constraints which generally relate to, flood risk, overhead pylons, potential ground contamination, and access. Paragraph 7.3 states that of the total employment land available, only 19ha is considered to be immediately available and free from constraint. A further 45ha of employment land should be available in the short-term once relatively minor site constraints have been resolved. Between them this equates to only 25% of the total employment land supply in Newport.

The report also states that the more desirable prestige land is subject to considerable site constraints with only 30ha available immediately or in the short term. Further evidence is required to demonstrate that constraints would not restrict development, or impact on the total developable area of the allocations. Some examples include:

- East of Queensway Meadows (142ha) much of the site is located in a SSSI and the development of this area is affected by the M4 relief road safeguarded route. The site is allocated for projects of at least 20ha with sufficient national economic interest to outweigh environmental impacts. There are also issues relating to C1 flooding, overhead pylons and loss of habitats.

- Solutia (52 ha) the M4 relief road safeguarded road lies to the South of the site. There are also issues relating to C1 flooding, overhead pylons and loss of habitats.
- Newport Docks – the M4 relief road route runs through the central portion of the site. There are also issues relating to loss of habitats.
- Gwent Europark – located within a SSSI and C1 flood zone.

It is vital that the plan is clear on the level of provision sought, it is based on robust evidence and includes a monitoring framework which includes appropriate triggers that will inform potential shortfalls if they arise and how they would be addressed. Clarity on why UDP allocations have been rolled forward and their appropriateness for continued inclusion would be beneficial.

A v – Mineral Safeguarding

Limestone and sand and gravel resources have been safeguarded in line with the Cuesta study commissioned by Torfaen on behalf of the former Gwent authorities. However, there are further sand and gravel resources identified on the BGS mapping which are not safeguarded which should be, for example around the Coedkernew area south of the M4 and at Caerleon. These should be identified on the proposals map.

The Regional Technical Statement (RTS) recognises the constraints faced by Newport in contributing towards maintaining an adequate supply of minerals, which is a requirement of national planning policy (MPPW and MTAN 1 Aggregates). The Cuesta Study considered the obligations placed on Newport by the RTS and concluded that Newport would have difficulties in fulfilling the allocation obligations for hard rock, and as a result should consider whether the authority can rely on resources available in adjacent authorities.

The RTS is dated October 2008 and the Cuesta Study May 2009, yet no formal approach was made to the adjacent authorities until September 2011, this is disappointing. The plan is silent on the matter of its RTS apportionment and as a result does not accord with national planning policy or the RTS. The failure to fulfil national policy obligations to contribute towards the maintenance of an adequate supply of aggregates should be recognised. The RTS recommends that there will be demand for approximately 8-8.5 million tonnes of aggregates within the area, of which 38.4% will need to be accounted for by Newport.

Category B. Objections under soundness tests C2, CE1, and CE2: Matters where it appears that the deposit plan has not satisfactorily translated national policy down to the local level and there may be tensions within the plan, namely:

B i – Affordable Housing Thresholds

We note that an Affordable Housing Viability Study (2012) was carried out. The findings of the report suggest that there is a three way viability split which could more specifically respect local market circumstances (40% Caerleon and Rural Newport, 30% Rogerstone and Newport West, 10% for Newport East, Malpas and Bettws). It is not clear why this option was discounted as the study suggests this is the option would maximise the delivery of affordable housing over the plan period, particularly as this is a Ministerial priority. In addition, it is not clear if the Council have considered using commuted sums in order to secure affordable housing on sites below 3 units. The council should do all it can to maximise delivery of affordable housing.

B ii – Delivering Infrastructure

It is imperative that the Council secure the infrastructure necessary to deliver the development proposed in the Local Development Plan. The Council needs to be in a position where it has the appropriate mechanism in place to secure financial receipts from development in order to meet the identified requirements. A policy vacuum, leading to insufficient financial receipts to deliver the required infrastructure should be avoided. Further explanation should be provided to demonstrate how this situation is not an issue, or, if it is how will it will be resolved.

We note that the authority intend to adopt a CIL charge. However, Policy SP13 CIL does not indicate any timescales for its preparation. After 6th April 2014 the CIL Regulations limit the ability to secure infrastructure through planning obligations, pooled S106 contributions (5 or more) will no longer be allowed. The council needs to explain how this will impact on the delivery of infrastructure, the strategy and timing.

B iii – Monitoring

The mechanisms for implementation and monitoring need to be sufficiently clear and sensitive to provide an early alert to non-delivery. An appropriately transparent and comprehensive monitoring framework should be an integral part of an LDP. The LDP monitoring framework (Chapter 12) has some shortcomings regarding ranges, trigger points and unspecified appropriate remedial actions.

It is difficult to determine what/when would lead to a review of key policies within the plan. Appropriate trigger points that would allow sufficient time to consider and introduce alternatives should be included within the monitoring framework. Some key examples include the target/indicator for H4, there is no target for affordable housing, and therefore it is difficult to see how this could be monitored. The monitoring target for H1 also requires revision. A target of 90% by the end of the plan period is not acceptable. More frequent timescales should be included in the targets to ensure that a review could be triggered if sites are not coming forward as anticipated.

Category C. In relation to soundness tests CE2, CE3, CE4: whilst not considered to be fundamental to the soundness of the LDP, there is considered to be a lack of certainty or clarity on the following matters which can usefully be drawn to your attention to enable you to consider how they might be addressed:

C i Gypsy and Traveller Sites

Land is allocated in the Plan to meet the identified need of 27 authorised pitches and 7 transit pitches. It should be clearly demonstrated that the sites can accommodate the identified pitch need within the plan period. The assessment of pitch need detailed in the 2009 Fordham Needs Assessment covers the period to 2019 and not 2026, not the LDP period. The scale of need over the last 7 years of the plan period and how this will be accommodated (if required) should be clarified.

It should be noted that some text is missing from paragraph 2.2 of the Gypsy and Traveller Sites paper April 2012. Details of the missing text should be provided to ensure that fundamental evidence has not been omitted from the background paper.

C ii - Major Road Schemes

The rationale for linking key regeneration sites, road and new rail infrastructure is accepted, although it is noted there may be some constraints relating to flooding and habitat issues. A proportion of the schemes delivery in some cases is tied to developer contributions. A fundamental question not made clear in the plan is what happens if all the development came to fruition without the associated highway infrastructure, this would be a particular issue if the CIL is not in place by April 2014. The ability to pool resources to assist with the deliverability of major infrastructure would be extremely curtailed.

The monitoring indicators in relation to the delivery of key transport infrastructure rail are inadequate. (See comments in relation to the monitoring framework).

C iii – Policy Wording

The authority should consider whether the excessive number of policies in the plan are required, or whether they are adequately dealt with in National Planning Policy. The LDP does not need to reiterate what is contained in planning policy advice.

The wording of some of the policies is confusing and may not deliver the objectives originally intended. Examples are Policy R6 ‘Newport Retail Park District Centre’ and R7 ‘Newport Retail Park District Centre Proposals’

Policy R6 states that no additional retail floor space will be permitted at Newport Retail Park District Centre. Policy R7 seems to run counter to this fairly definitive policy in that criterion (ii) of the policy advises that proposals will be permitted provided that any retail unit proposed is greater than 500 m2.

Policy CF2 ‘Protecting Sub Regional Sport and Leisure Facilities’. This policy as worded would prevent the loss of all or any part of the principal use of the site for other uses. This could result in privately owned facilities being left vacant, rather than being redeveloped for other alternatives uses, if the viability of the existing facility became problematic.

The need for some detailed policies of the plan is not justified. Policy CE6 ‘Shop fronts’ provides detailed guidance on the design of new shop fronts which it is considered would be more appropriately contained in SPG. PPW provides advice on design which could be supplemented by a general policy on design, rather than having numerous detailed policies which have the overarching aim of securing good design. This could also be true in relation to policy CE7 ‘Signs and Advertisements’.

The above are examples of where there are concerns over the rationale and wording of policies to ensure that they are implementable in accordance with the strategy of the plan as a whole and defensible in decision making. The plan must provide the essential framework for rational and consistent decision making. The focus for area wide policies should include, inter alia, design, but more detailed considerations are more appropriately contained in SPG, which can be more easily updated to adapt to changes in circumstances. The need for detailed design requirements to be contained in SPG is referred to in paragraph 2.20 of Local Development Plans Wales: Policy on Preparation of LDP’s.

The flexibility of policies to deal with changes in circumstances should also be considered. For example Policy W1 Waste Site Allocations: (4ha at Llanwern Steelworks). This site is being considered as part of Prosiect Gwyrdd along with another site in South Wales. The policy in its current format is not flexible in terms of allowing other uses if the site is not required for this purpose.

There are also examples of where a policy is more akin to a statement of intent rather than a policy. For example SP9 seems overly onerous to apply to all proposed developments and it should be recast to reflect its application to protected areas or be deleted.

Category D. Matters relating to clarity of the plan generally which may be of assistance to your authority and to the Inspector in considering suitable changes.

D i Policy T1: Railways: All stations are indicated on the proposals map with T1, there is no specific labelling for the individual proposals which is confusing. It is not easy to determine what 'T1' relates to which new station.

D ii Chapter 6: Employment: Paragraph 6.1 refers to Policy SP147. this is typographical error and should read SP17. The plan has other typographical errors.

D iii Historic Environment:

- Proposals Maps - These should show areas of registered historic parks and gardens (as Powys LDP). Tredegar Park, for instance, is shown only as a Conservation Area.
- Page 21, Paragraph 2.34. There are 11 registered historic parks and gardens in Newport not 10. This has, however, been stated correctly on page 53.
- Page 53 – CE8 Historic Landscapes, Parks, Gardens and Battlefields Paragraph 4.26 needs revising as it is out of date. The sentence beginning 'All applications affecting these sites ...' should read: "*All applications affecting these sites, their Essential Settings and Significant Views will be referred to Cadw - the Welsh Government's Historic Environment Service.*" as the Garden History Society no longer advises on planning applications in Wales.

D iv Flood Risk - SP3: References to flood defence improvements for existing developments (e.g. paragraph 0.7) should be amended to refer to "improved flood resilience over the short to medium term". As the sites along the River Usk have come forward and have been built taking into account climate change up to 2056 not 2106. In addition, Policy SP3 (Flood Risk) requires further clarification/amendment to align with TAN 15 'Development and Flood Risk'.

D v Chapter 14: SPG: In the list of SPG there is no indication of timescales for their preparation, especially for those that of 'high' priority. The monitoring framework fails to include the preparation of SPG as considerations for targets and triggers.

D vi Policy H5: Affordable Housing Rural Exceptions (Para 5.15): The reference to "Gypsy and Traveller accommodation" should be removed. If the Authority consider it necessary to have a Gypsy and Traveller rural exception site policy, this should be included as a separate policy (paragraphs 28 & 29, Circular 30/2007, 'Planning for Gypsy and Traveller sites). it is not appropriate to conflate this with affordable housing requirements.

D vii Page 11 : Conservation of the Environment (2) : This objective could be rephrased to include the objective to 'improve' the natural environment (paragraph 5.1.2 PPW refers).

D viii Minerals – Clarification & Accuracy

Policy M1: The policy is written as an absolute to cover all resources, yet the reasoned justification indicates that there may be reasons for allowing development. In doing so the reasoned justification should be clear about the factors which may influence this and the

process which would be expected, this could reasonably vary for sand and gravel as opposed to hard rock but the explanation should provide more clarity than as drafted.

Proposals Map: Minerals - Contains 'safeguarding of *mineral resource*' delineation and a '*sand and gravel reserves*' delineation to which policy M1 applies. It is useful to separate sand and gravel and hard rock (limestone) in terms of safeguarding but the labelling of these areas needs to be accurate. In particular the use of the word 'reserves' to label sand and gravel 'resources' is inaccurate.

Policy M2 – Mineral Development - The policy as written represents a repeat of national planning policy and should be revisited.

Policy M3 Oil and Gas - The BGS Resource Mapping should be considered to see if there are any resources which may harbour the potential for natural gas. Should this not be the case then arguably this policy does not add anything to national policy in MPPW on onshore oil and gas (paragraphs 64-65). In addition, it is unclear why policy M2 should be relevant to oil and gas. The criteria in policy M2 are largely specific to aggregates not energy minerals, with the exception of restoration and aftercare. There are some unqualified statements in the reasoned justification about the environmental risks, for example 'associated development' posing 'major environmental problems'.

D ix Waste

Policy W1: Flexibility - We note that the South of Llanwern site is one of two shortlisted sites for Prosiect Gwyrdd. If the site is not chosen (which will be known within the plan period) and then alternative options for the site would need to be considered in due course.

Policy W2: The amount of land required should be 12.6ha minus 4ha already identified at Llanwern. It is not clear why detailed assessments are required to meet the estimated land requirement of up to 12.6 ha. Either the required amount of suitable land to support an adequate network of waste management facilities is potentially available or not.