



Mark Hand
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Newport
NP20 4UR

Our Ref: qA983510

Your Ref:

Date: 25th July 2013

Dear Mark,

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

Thank you for your letter of 13th June including copies of the Revised Deposit Local Development Plan (LDP) and accompanying documentation.

We note that the level of housing provision in the plan is a deviation above the Welsh Government 2008 projections. Whilst we do not object to the level of housing proposed, it is important that the local authority has appropriately justified the deviation in accordance with the criteria stated in PPW (paragraph 9.2.1), including the LDP strategy and key issues.

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 Government's 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:

None.

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 – Targets, Thresholds & Commuted Sums**
- (ii) **Minerals - Safeguarding and Land bank**
- iii) **Renewable Energy**

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) Employment Provision – scale; deliverability and safeguarding**
- ii) Delivery – Infrastructure and Gypsy and Traveller Sites**
- iii) Monitoring**

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

Mark Newey
Head of Plans Branch
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:

None.

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:

i) Affordable Housing

On the 17th July the Minister for Housing and Regeneration announced changes to Building Regulations Part L, including changes to domestic fire safety measures (sprinklers). These proposals introduce a requirement to reduce greenhouse gas emissions by 8% from 2010 levels. These proposals will be effective from 2014 and are the equivalent of what is currently required under TAN 22. The total costs for implementing these changes will be £3100 per unit. This is a reduction from the £7300 per unit that was originally consulted upon and formed the basis for the viability work and hearing discussions in previous examinations. The authority should clarify how these reduced costs do not impact on the viability work and the affordable housing policy in the LDP.

Affordable Housing Target

It is disappointing that the updated Affordable Housing Background Paper does not take account of our previous concerns with 'blanket' policy approach still being pursued. Policy H4 Affordable Housing includes requires a 10 unit threshold and a 30% target for affordable housing. The evidence indicates that a three way split could better reflect 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 indicates this option would maximise the delivery of affordable housing over the plan period, particularly as this is a key Ministerial priority and a key issue in the plan.

Paragraph 5.14 of the Revised Deposit Plan uses the work maximum. This is not appropriate as there may be cases where a higher figure could be achieved, based on viability. Achieving a higher level of delivery should not be precluded by the policy, provided it is based on robust evidence.

Affordable Housing Thresholds

The evidence suggests that a lower threshold would increase the supply of affordable housing. For example, Table 5.1 of the Viability Study (Affordable Housing Background Paper 2013) shows that 267 dwellings were given planning permission on sites of 1-9 units in the past three years. This equates to 23% of permissions over this period (approx. 90 units per annum). The Viability Study also notes the locations with the highest values have a greater reliance on small sites. It is not clear why a threshold of 10 units in urban areas has been deemed appropriate for the plan. Lower thresholds should be set to maximise delivery.

Commuted Sums

There is also scope to consider the use of commuted sums, particularly to address the issue of part delivery. The use of commuted sums should not be considered as exceptional within the context of Newport. For example the viability work suggests that areas such as Caerleon have far greater residual land values and are therefore more viable than others.

ii) Minerals

Mineral Safeguarding

It is unclear whether the safeguarding areas on the Proposals Map align with the Aggregates Safeguarding Map of Wales. The mineral background paper (paragraphs 1.5 & 3.3) refers to the National Aggregates Safeguarding Map of Wales as being incomplete. However, the Aggregate Safeguarding Map was published in November 2012. The Welsh Government (14th November 2012) updated local planning authorities of the changes. The aggregate safeguarding areas include the additional 'safeguarding margin'.

Minerals Land bank

The plan is not compliant with the statutory requirements set out in national planning policy. Minerals Technical Advice Note 1: (MTAN1) Aggregates (paragraph 49) requires a minimum 10 year land bank of crushed rock and minimum 7 year land bank for sand and gravel to be maintained during the entire plan period. MPPW (paragraph 14) requires the LDP to provide clear policies and proposals as to where mineral extraction should, or is most likely to take place. The mineral planning authority should clearly identify on the proposals map, specific sites/preferred areas or areas of search.

The Former Gwent Aggregates Safeguarding Study, Cuesta (2009) report commissioned by NCC along with former Gwent authorities found that there is potential for allocations to be made in the form of areas of search. NCC does not identify areas of search or a preferred area in the plan. The authority is not compliant with the RTS requirement of providing 8 – 8.5Mt of non-energy minerals.

The authority has not properly explained the reasons for this non-compliance. Whilst it is acknowledged that the council approached neighbouring authorities with an identified surplus of reserves, it is disappointing that the authority did not undertake the relevant collaboration earlier in the LDP process. Monmouthshire County Council's partial solution (7 June 2013) is encouraging, however, it remains unclear as to the exact tonnage and location of mineral that would be apportioned to Newport. Policy M2 needs to be written to facilitate an appropriate supply of resources, when required.

iii) Renewable Energy

PPW states that local planning authorities should guide appropriate renewable and low carbon energy development by undertaking an assessment of the potential of all renewable energy resources and renewable and low carbon energy opportunities within their area and include appropriate policies in development plans. Although a study has been undertaken for Newport City Council and Torfaen County Borough Council to provide an evidence base, this is not reflected in the LDP.

Policy CE11 Renewable Energy is a generic policy which would not guide appropriate renewable and low carbon energy development and, as it contains a number of ambiguous statements, does not set out clearly the criteria against which proposals will be evaluated.

Further consideration is required on how to translate the evidence base into a policy format.

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:

i) Employment

Employment - Scale

With regard to the Employment Land Review (ELR) March 2013 we consider that while the authority has made significant progress in quantifying the level of employment provision, there remains a large disparity between the employment land requirement of 35ha and the substantial allocation of land within Policy EM1 Employment Land Allocations and EM2 Regeneration Sites.

The table below has been derived from the updated employment figures in the ELR. The table shows that land is allocated for around 350ha for employment use, excluding those existing employment sites under Policy EM3 and EM4. This represents a 90% flexibility allowance. Whilst we acknowledge there should be sufficient flexibility for 'churn and market' choice, this overprovision is far in excess of the 35ha requirement.

Policy EM2	Total hectares of employment
Llanwern Steel Works Eastern End	39.5
Phoenix Park	2ha
Llanwern Former Tipper Area	122ha
Old Town Dock	32.75 (Unable to determine employment element from policy or ELR (includes B1))
Godfrey Road	2ha
Crindau	10 ha (New employment use is preferred)
Whiteheads	2ha
Monmouthshire Bank Sidings	1.2
Novelis (Alcan)	1.5ha
Total Employment Allocation EM2 = 180 ha (excluding Old Town Dock)	
Total Plan Allocation (EM1 + EM2) = approx. 350ha <i>(excluding EM3 Docks Safeguarding Policy)</i>	

We seek assurance that the strategy will not be diluted through this over provision, especially in light of market and physical constraints and issues surrounding deliverability. (See comments in respect of Employment Site Deliverability below). The authority should clarify that oversupplying the market to this extent will not have negative implications for land values; not hinder development from coming forward or jeopardise growth aspirations. The plan needs to make clear, in line with the evidence base, as to what proportion of employment land is allocated within EM2.

Employment Land - Deliverability

Whilst we support the principle of a regeneration growth strategy, there are discrepancies in bringing forward sites in relation to constraints, viability and delivery, some being of greater risk than others (as set out in the ELR). The sites need further examination. Examples:

Policy EM1 (Dyffryn & Queensway Meadows, 100ha) – Safeguarded for single large user projects of ‘national significance’ at least 10ha. The Welsh Government does not object to such an approach but it is unclear as to what market sectors these sites would attract.

Policy EM1 (Solutia, 45ha) – Land ownership constraints and part of the area is likely to be used for the company’s expansion. The ELR states that the site cannot be considered ‘normal supply’. In addition there are constraints relating to contamination and landfill. It is not clear why the site is included in the plan.

Policy EM2 Llanwern Tipping Area (122ha) – A ‘very much long term opportunity’ with no realistic opportunity for being developed in the short time and is likely to come forward at the very end/outside the plan period. Viability is a major issue. There does not appear to be any evidence to support the inclusion of this site in the plan.

Employment - Safeguarding

Sites protected through Policy EM4 should be shown on the proposals map which is currently not the case. This is confusing and does not aid the clarity of the plan. LDP Wales (paragraph 2.2.4) states that policies that have a spatial component in the plan should be defined on the proposals map.

The wording of Policy EM4 is not properly constructed to achieve the outcomes required. It is unclear what sites the policy applies to, the aims of the policy, or how it will be implemented. In this case the reasoned justification is more helpful than the policy itself.

To monitor Policy EM4, a new Employment Land SPG will be required. The purpose of the SPG will be to help define the role of Newport’s existing stock, including a hierarchy of priorities, and will outline the level of evidence the Council will expect to support planning applications in employment areas. The SPG will protect some sites more strongly than others. This new SPG is noted as being of a high priority 2014-2015. It is unclear how policy EM4 can be properly implemented in the absence of this key evidence. This policy, in the absence of this work does not create certainty to applicants or developers.

Policy EM2 Newport Docks. It is unclear why a separate policy is required, and why it can not be included as part of Policy EM4. The particular issues, characteristics and priorities for the site could be noted within the SPG. It is also unclear why water has been included as part of this allocation. It would be helpful if the authority could explain the reason for this approach given the total area has massively increased from the UDP.

ii) Delivery

Community Infrastructure Levy (CIL) & S106

The Council has prepared a new Delivery and Implementation Paper. The paper includes information on constraints and phasing, in addition to funding sources and the stakeholders responsible for delivery. This additional work is supported. The Council should be certain that without a CIL charge in place, the required infrastructure is not beyond the tests set out in the CIL Regulations (R122).

We note that the authority intend to adopt a CIL charge. Policy SP13: Planning Obligations does not indicate any timescales for its preparation. It would not be prudent at this point in time to pre-empt a CIL charge due to the necessity to demonstrate there is a funding gap initially, which provides the rationale for a CIL charge. The essential point is to ensure there is no ‘double charging’. The supporting text (paragraph 2.44) notes that contributions will be

set out through variety of means including S106 and CIL. This is confusing for potential applicants given that a CIL charge is not yet in place. The wording here should be more explicit.

The implications for development arising from an inability to 'pool' future S106 agreements after 6th April 2013 (CIL Regulation 123) and any CIL charging schedule preparation timetable should also be considered. All other S106 agreements should accord with Circular 13/07. The policy needs to reflect this approach.

Policy SP13 – Planning Obligations is silent in respect of the types of planning obligations that may be sought from development through S106 agreements and the general priorities for development in the plan. Where funding for related infrastructure is to be sought through planning obligations, the plan should specify the Council's priorities in broad terms to inform the provision of infrastructure/mitigation and avoid a scheme development being unviable. For example, it is not clear how affordable housing relates to, or how it will be prioritised. As worded the policy is not sufficiently detailed and would not create certainty to applicants/developers.

The policy is also silent in terms of how viability will be taken into account when assessing planning obligations. The Authority would benefit from looking at similar policies in other adopted LDPs in order to improve both the content and the clarity of this policy.

Gypsy and Traveller Sites

Land is allocated in the plan to meet the identified need of 43 permanent pitches and 7 transit pitches. It should be clearly demonstrated that the sites can accommodate the identified pitch need within the plan period. Two permanent sites have been allocated, in addition to a contingency site.

The Delivery and Implementation Paper (pages 92-28) highlight planning considerations, infrastructure requirements and the constraints for all identified sites. The authority should demonstrate that the sites can be delivered in the plan period in relation to the identified constraints. Reference is also made to £1.75 million Welsh Government funding available to all local authorities in Wales. The authority should clarify to what extent the deliverability of these sites are reliant on Welsh Government funding, and in the absence of such funding, what are the implications for deliverability of the sites.

iii) Monitoring

The mechanisms for implementation and monitoring need to be sufficiently clear and sensitive to provide an early alert to avoid non-delivery. An appropriately transparent and comprehensive monitoring framework should be an integral part of an LDP. The LDP monitoring framework (Chapter 12) has shortcomings regarding ranges and trigger points. The framework would benefit from the identification of specific local targets and triggers that reflect the desired achievement of the plan's strategy, both numerically over the plan period and spatially across the authority. Some examples:

Housing (OB4 MT4, OB3 MT5) - Many indicators in relation to housing have trigger points every five years. This is ambiguous. 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. The monitoring framework for affordable housing could include an indicator relating to the affordable housing thresholds in the plan. Below is an extract from Pembrokeshire County Council's monitoring framework. The authority may find it useful to adopt a similar approach tailored to their area.

1. Affordable Housing percentage target in GN.29.	Target will reflect economic circumstances.	If average house prices increase by 5% above the base price of 2012 levels sustained over 2 quarters then the authority will consider other triggers identified in the Affordable Housing SPG and may conduct additional viability testing and modify the targets established in GN.28 and GN.29.
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Density (OB4 MT6) - Policy H3 as worded does not include a reference to a specific density. However, the monitoring target in this respect refers to a figure of 34 dwellings per hectare. In addition, six of the nine new housing allocations have average densities 26 dph. It would be helpful if the authority could clarify this approach.

Employment (OB3 MT1) - The monitoring target for employment does not correlate with the employment requirement. The target for annual take up is 1.4ha of employment land per annum equating to 21ha (plan total 35ha). This needs further clarification.

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.

i) Housing Provision / Affordable Housing Target

Housing Tables - Chapter 5. It is unclear from the tables if the affordable housing units (agreed and estimated) relate to the total site capacity, or remaining units that will come forward in the plan period. This should be clarified along with potential impacts on the overall affordable housing target.

It is not clear whether the completions to date (01/04/11- 30/09/12) have been correctly calculated. The table on page 67 notes that large site completions in the plan period total 330 units. In addition, Para 5.9 states that 45 small site completions have occurred in the plan period to date. This results in a total completion figure of 375 units. The total completions figure in the overarching supply table on page 64 states that completions are 563 units. It would be helpful if the Council could clarify the correct figure in this respect, and where this anomaly would result in a reduction of 188 units from the total housing provision of 11,622 units.

ii) Policy Wording - The authority should consider whether the excessive number of policies in the plan is required, or whether they are adequately dealt with in National Planning Policy. The current format of the plan including the vast array of policies is a ‘belt and braces’ approach. The examination is an opportunity to address this matter.

iii) Minerals

Policy M1 ‘Safeguarding of Mineral Resource’ – As stated in our Deposit representation, Policy M1 should clearly articulate the overriding reasons for allowing development in areas of mineral safeguarding. The authority may find it beneficial to look at Torfaen’s or Blaenau Gwent’s policy on mineral safeguarding.

Policy M2 'Mineral Development' – should be worded positively to facilitate mineral development to address the unmet need. It is unclear what the purpose of Criteria i) is as the evidence of need is already established and set out in the RTS.

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. Paragraphs 10.11 of the Revised Deposit Plan states that there are no known mineral energy sources (oil, gas or coal) within Newport. It is therefore unclear why this policy is included in the plan.

iv) Environmental Spaces (Policy CE4) - We do not object in principle with the policy. However, it is not clear why identifying all of the spaces shown on the proposals map is necessary. PPW (paragraph 11.2.3) states that the development plan should protect playing fields and open spaces that have significant amenity or recreational value to local communities. Some of the spaces identified in the plan are small green verges situated near roads and or land in residential areas. Other spaces are protected under other policies or designations such as historic landscapes and parks, conservation areas and archaeologically sensitive areas etc. It is difficult to see how many of these spaces would be subject to development pressure due to their size and location, and in some cases whether they require a separate level of protection over and above existing designations. It would be helpful if the Council could clarify the approach taken in respect of this policy.

v) Gypsy and Travellers

Policy H5: Affordable Housing Rural Exceptions (Para 5.15) - The reference to "Gypsy and Traveller accommodation" should be removed. If the Authority considers 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.

Policy H15 Gypsy and Traveller Transit Accommodation- Paragraph 5.30 sets out the operational management arrangements for the policy. This is not appropriate content for an LDP.

Policy H16 Gypsy and Traveller Residential Accommodation- Paragraph 5.32 refers to the requirement that applicants have to demonstrate a local connection and no other place to live. This statement does not comply with WG Circular 30/2007 and Section 225 of the Housing Act 2004.

vi) Flood Risk (Policy SP3) - A full stop should be inserted after "in accordance with national guidance" in order that the policy accords with guidance in TAN 15. In addition references to TAN 15 should refer to 2004, not 2014.

vii) Waste - Objective 10: Waste – The revised Waste Framework Directive requires the proximity principle to be applied to Mixed Municipal Waste, not all types of waste. The words "where appropriate" should be added after "proximity principle" in order to comply with the revised Directive.

The Waste Background Paper identifies the WG Clarification Letter CL-01-12 (1st November 2012). However, the content of this letter has not been reflected in the supporting text of the Waste Chapter as the Waste Plan also comprises Towards Zero Waste, and the CIMS Sector Plan which are not referenced. LDP, paragraph 11.6 – The sentence "the need for future waste facilities will be assessed against the SEWRWP" as CL-01-12 identifies that

the SEWRWP does not reflect the more up to date waste arising predictions set out in the CIMS Sector Plan, which is bases on tonnages and not land take.

viii) Climate Change – (Policy GP1) - The wording of the policy is unclear and appears to contradict itself. The clarity of the policy could be improved as follows:

- i) Be designated to withstand the predicted changes in the local climate and to reduce the risk of flooding on site and elsewhere by demonstrating where appropriate that the risks and consequences of flooding can be acceptably managed, including avoiding the use of non-permeable hard surfaces;

In addition, paragraph 3.7 should be amended to include reference to the Council’s role as Lead Local Flood Authority as follows “Developments will therefore only be permitted where the Council, as the local flood authority is satisfied that.....”

ix) Renewable Energy (Solar Panels) - Paragraph 4.55 – Solar Panels (up to 50MW) on non-domestic buildings are now permitted development. The new provisions in the GPDO should be acknowledged.

x) Stakeholder References - All references to the Environment Agency (EA) should be amended to Natural Resources Wales (NRW). There are some instances in the plan where this had not been updated.
