

PEDW – Advice Note 1 2025 – Updated to reflect the High Court’s decision to quash the Council’s adoption of the LDP
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Currency – until further notice
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Wrexham – How to approach policy matters following the recent decisions in the High Court and Court of Appeal
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1. The Council's decision to adopt the LDP was quashed by the High Court on 19 May 2025. The LDP is no longer part of the development plan for Wrexham and is a non-adopted plan, albeit one that has been found sound following examination.
2. The Legislation (Procedure, Publication and Repeals) (Wales) Bill is currently progressing through the Senedd which, when it becomes an Act will repeal the legislation relating to UDPs. However, an amendment has been tabled providing a stay of execution for the Wrexham UDP.
3. It seems likely Wrexham Council will ask WG to withdraw the LDP. Planning Division has indicated the process for this will include consultation by the Council and the submission of a report to Welsh Government seeking justify the withdrawal of the LDP. We will keep you updated but expect the process to take months.

Approach to decision making

4. The development plan for Wrexham comprises Future Wales and the Wrexham Unitary Development Plan 1996-2011, adopted 2005. Despite its age, the UDP enjoys development plan status under S38(6).
5. Where reasons for refusal cite conflict with LDP policies, on receipt of a valid appeal Casework will ask the Council to include a note with the questionnaire explaining which UDP policies are offended and provide a link to the UDP, together with any other information that the Council may consider relevant, such as any Council Position Statement and any national planning policies of particular relevance to the reasons for refusal. If there are no equivalent UDP policies we will request they explain how the proposal allegedly conflicts with national policy. This should avoid a need to go back to parties who will be able to respond at final comments stage.
6. For those cases already validated but yet to be allocated to an Inspector Casework will write out in similar terms and provide an opportunity for the appellant to comment on any response.
7. If the Council has not produced a note with the questionnaire or addressed this in an appeal statement you should ask for it and give the appellant and interested parties the opportunity to comment.
8. The following could be included as a procedural matter.

The Council's reasons for refusal allege conflict with policies in the Local Development Plan (LDP). The Council's decision to adopt the LDP was quashed

by the High Court on 19 May 2025. Consequently, the development plan comprises Future Wales and the Wrexham Unitary Development Plan 1996-2011, adopted 2005 (UDP). The Council has indicated the UDP/national policies with which it considers the proposed development conflicts and all parties have had the opportunity to comment.

9. Unless a party argues the LDP's policies, allocations and targets are to be favoured above the UDP, it should not be necessary to refer to the LDP in decisions.
10. For simple issues such as impact on character and appearance, highway safety and living conditions, most UDP DM policies should be in general accordance with national policy and it should not be necessary to look beyond them. Nonetheless you should satisfy yourself this is the case.
11. In concluding on the development plan, it would be prudent to highlight where UDP policy accords with national policy and guidance. Further, when concluding, you should not rely solely on the UDP. For example,

The proposed development would have an adverse impact on the character and appearance of the area and conflicts with Policy GDP1 of the UDP, the placemaking principles in FW and Planning Policy Wales and the Welsh Government's commitment to achieving good design as set out in Technical Advice Note 12: Design.'
12. Where UDP policies are not in accordance with national policy, given the age of the UDP, adopted in 2005 and time expired in 2011, this is likely to be a significant material consideration and is likely to outweigh conflict or compliance with UDP policy.
13. The Development Plans Manual 3 explains that "it is for the decision-maker in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted LDP are outdated for the purposes of determining a planning application. Where this is the case, LPAs should give the plan decreasing weight in favour of other material considerations such as national policy". The same advice is relevant when applied to UDP policies.

Future Wales

14. Future Wales is the most up to date part of the development plan for the area and where there is conflict, will carry greater weight than the UDP.
15. Wrexham is in a national growth area (Policies 1 and 20), these may be material in cases for new housing, employment and infrastructure. Policies 17 and 18 will also be relevant for renewables. Part of the borough is in an area under consideration for a Green Belt (Policy 22). Policy 7, Affordable Homes, Policy 8

Flooding and Policy 9 Resilient Ecological Networks and Green Infrastructure may also apply.

Weight to be given to the LDP – pre withdrawal

16. Parties may continue to cite LDP policies and argue they are more relevant than the UDP.
17. The LDP was found to be sound following examination. It was adopted by the Council and was part of the development plan for Wrexham from adoption to the High Court's decision to quash the Council's decision to adopt the plan.
18. The Development Plans Manual provides advice on emerging plans. However, there is presently no indication that it will be adopted.
19. Nonetheless, the LDP has been subject to examination, found to be sound and its strategy, targets, allocations and policies are a material consideration of considerable weight. As an example, the LDP's thresholds and requirements for affordable housing are based on national policy and evidence of need and viability. Whereas the UDP's approach to the provision of housing and affordable housing is based on outdated national guidance and an evidence base which is woefully out of date.
20. Constraints such as settlement boundaries, Special Landscape Areas and Green Wedges form part of the LDP strategy and are influenced by levels of need and supply. Depending on the circumstances, it may be appropriate to give LDP designations or non-designations greater weight. For example, the LDP removed some Green Wedge and SLA designations based on a strategy, evidence of need and a landscape assessment that was found to be sound. However, in relation to Green Wedge you should bear in mind parts of the district are identified as Green Belt Areas of Consideration under FW Policy 22.
21. The following text may be useful.

The LDP/Policy X was found to be sound following examination and conforms with national planning policy. The requirements/aims of UDP Policy Y have been superseded by later developments in national policy (explain why briefly in relation to FW, PPW, TANS, WBFGA). I find national policy and the evidence that supported the drafting of LDP policy X to be a material considerations which outweighs conflict/conformity with Policy UDP Policy Y.

Or

The LDP's housing/affordable housing requirement is supported by evidence regarding housing need/supply which was scrutinised at examination and found

to be sound. In the absence of any evidence to the contrary, I give the evidenced and tested need for housing/affordable housing considerable weight.

Or

The UDP's settlement limits/green wedge designations are based on a strategy and evidence of housing need which is over 20 years old. In contrast, the LDP's equivalent designations are founded on a strategy and evidence of need which was scrutinised at examination and found to be sound. In the absence of any evidence to the contrary, I consider the LDP settlement limits/green wedge designations are material considerations which outweigh the UDP.

22. Remember to refer to Wrexham being in a National Growth Area or Green Belt Area of Consideration as appropriate.

Weight to be given to the LDP – post withdrawal

23. Where reasons for refusal cite conflict with LDP policies, on receipt of a valid appeal Casework will ask the Council to include a note with the questionnaire explaining which UDP policies are offended and provide a link to the UDP, together with any other information that the Council may consider relevant, such as any Council Position Statement and any national planning policies of particular relevance to the reasons for refusal. If there are no equivalent UDP policies we will request they explain how the proposal allegedly conflicts with national policy. This should avoid a need to go back to parties who will be able to respond at final comments stage.
24. For those cases already validated but yet to be allocated to an Inspector Casework will write out in similar terms and provide an opportunity for the appellant to comment on any response.
25. The following could be included as a procedural matter.

The Council's reasons for refusal allege conflict with policies in the Local Development Plan (LDP). The LDP has been since been withdrawn. Consequently, the development plan comprises Future Wales and the Wrexham Unitary Development Plan 1996-2011, adopted 2005 (UDP). The Council has indicated the UDP/national policies with which it considers the proposed development conflicts and all parties have had the opportunity to comment.

26. Following withdrawal of the LDP you should not afford weight to its policies. Should parties argue the appeal be considered against LDP policies the following may be helpful.

The appellant contends the appeal should be determined in light of the policies in the LDP. On the Council formal request the Welsh Ministers agreed to withdraw the LDP on X. The development plan for Wrexham comprises Future

Wales and the Wrexham Unitary Development Plan 1996-2011, adopted 2005 and I shall determine this appeal on that basis.

27. The evidence base supporting the LDP may still be material. The evidence base was scrutinised through examination and may carry significant weight depending on its age and changes in circumstance.

The LDP has been withdrawn but the evidence of housing/affordable need supporting the LDP was scrutinised at examination and found to be sound. In the absence of any evidence to the contrary, I give the evidenced and tested need for housing/affordable housing considerable weight.

28. Although no weight should be afforded to the LDP there may be circumstances where, in the absence of relevant local policy (ie the UDP is out-of-date and any emerging Plan is at too early a stage), elements of the Plan could be taken into account. For instance, an LDP housing allocation might demonstrate that it was considered an appropriate site by the Council after public consultation, and in light of its evidence base, to be developed to meet the identified need. Such an approach was found sound by the Inspectors. In the absence of any alternative framework to direct the supply of new housing to meet identified need the previous allocation is an indication of its relative suitability for the proposed development.

29. As stated above, in such a situation one should point to Wrexham being in a National Growth Area designated in FW.

Supplementary Planning Guidance

30. None of Wrexham's Local Planning Guidance Notes post date the adoption of the LDP. The weight to be given to the Guidance Notes will depend on the extent to which the UDP policies to which it relates accord with national policy. The following may be appropriate.

The Local Planning Guidance Note supports UDP Policy X. UDP Policy X is consistent with national policy and I afford it significant weight.

Or

The Local Planning Guidance Note supports UDP Policy X. UDP Policy X is not consistent with/has been superseded by national policy (say why if you haven't already) and I afford it little weight.

Further advice

31. The above guidance should be sufficient for most casework but cannot cover every eventuality. Please speak to your PIM, DCPI or CPI if you need help.

- 32. To help us ensure consistency send decisions to the DCPI pre issue.**