

Consultation Relating to the Proposed New Local
Development Plan System; on:
The Local Development Plan Manual

Response by
Friends of the Earth Cymru

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Friends of the Earth Cymru

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Introduction

Friends of the Earth Cymru believes that the planning system in Wales should be founded on the highest standards of community participation to ensure that the system empowers all sections of society to help shape a sustainable future. These standards should be based on the Aarhus model¹ of participation – access to information, access to participation and access to justice. Sustainable development depends on decision making in which all members of society can be heard and contribute to the future of their communities. Participation in the planning process means people taking part in decision making. Friends of the Earth Cymru would like to see the manual amended to provide guidance and clarity on the concept and practice of participation in the LDP system.

Despite numerous professions of commitment to participation, the Local Development Plan Manual (LDP Manual) shows little understanding of participation. There is a gap between rhetoric and practice. The manual is weak, reiterative and seems designed to weaken rather than strengthen LPA attitudes to broad participation. Terms are consistently confused – consultation is not the same as participation, stakeholder dialogue is not the same as community involvement. The manual does not make the difference between these terms clear or provide consistent guidance.

It says:

“These are the two main forms of involvement in the LDP preparation:

- **participation** phase, as plan options are identified and tested. This means the LPA seeking structured discussions with partners and key stakeholders (see glossary) and such representative local interest groups as the LPA considers appropriate
- **consultation** phase, where public comments are sought on the preferred strategy (pre-deposit) report (regulations 15 and 16), and subsequently on the deposit LDP Regulations (17-21).”

(page 16, section 3.4)

The above simply describes the regulations. The term ‘participation phase’ describes a period of consultation with specific bodies. The wider meaning of participation is therefore lost. We have been assured by various representatives, including the Minister himself, that the LDP manual would expand and explain participation. However, these two statements above **offer nothing further in the way of describing and promoting an accurate and fair view of participation in the LDP preparation.**

The ODPM guidance *Community Involvement in Planning* defines participation thus:

“Participation

2.4 It is not enough to focus on providing information and consultation on proposals that have already been developed to the point where it is difficult to take other views on board.

2.5 Active participation in the development of options and proposals should be at the heart of the process. The community must be able to put forward and debate options and help mould proposals before they are settled. People need to feel that their participation can make a difference. This is challenging in terms of resources and effort, and means that councillors and planners have to be ready to listen know just what to expect at each stage of the process, especially when there will be open debate on wide ranging options, or when consultation is focussed on specific propositions.”

¹ <http://www.unece.org/env/pp/> Aarhus Convention: UNECE Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters. Adopted on the 25th June 1998.

Participation is about decision-making, whereas consultation is about putting forward views on a particular proposition. The ODPM guidance *Community Involvement in Planning* goes on to describe community involvement at a basic level as:

“There are many models of community involvement. At its most simple level, a community involvement process should ensure that people:

- Have access to information.
- Can put forward their own ideas and feel confident that there is a process for considering ideas.
- Can take an active part in developing proposals and options.
- Can comment on formal proposals.
- Get feedback and be informed about progress and outcomes.”

This describes elements of participation (taking an active part) and consultation (comment on formal proposals).

The LDP manual fails to translate the Minister’s aim to create “the conditions for early involvement and feedback at a stage when people can recognise a change to influence the plan;” particularly as the regulations themselves do not create the conditions for early involvement for people, but only for organisations such as businesses. The LDP manual does not strengthen or translate the Minister’s view into guidance, instead preferring to speak of stakeholders at the principle/theme stage. The LDP themes in the manual currently state that the new system aims to achieve the following objective:

“LDP production [to be based] on a continuous dialogue with and between stakeholders, to consider a wider range of needs, with the aim of building consensus on the strategy and policies for LDPs;”

Dialogue with stakeholders can in no way be construed as community involvement in the planning system. Nor should it be confused with the broader concept of participation. The title of section 2.3.2 *Basing LDP production on a continuous dialogue with and between stakeholders* is an incorrect interpretation of the Minister’s statement, and of what participation means. The Ministers’ aims are consistently undermined in the way the LDP manual sets out community engagement. Engagement in the local planning system is not about persuading the community to rubber-stamp proposals, but is about enabling and empowering people to take an active part in the process, and to help shape their local area.

Friends of the Earth Cymru considers that explaining and providing guidance on participation in planning is of paramount importance in the LDP manual. The guidance outlined by the ODPM’s *Community Involvement in Planning* publication should inform the LDP manual. Our amendments and concerns are outlined as follows.

1 INTRODUCTION - GENERAL

The LDP manual as it stands is confusing and contradictory. Particularly in terms of participation, the manual comprises an inconsistent set of aims, themes, objectives and methods.

Amendments to section 1

Purpose: to strengthen the role of sustainable development and participation in guiding LDPs

1.1. They are intended to deliver better quality outcomes ~~by promoting the~~ **by being based upon** the principles of sustainable development and community involvement.

Add Community Involvement in Planning: the Government’s Objectives to the list of ODPM guidance referenced.

2 MAIN THEMES FOR THE LDP SYSTEM

The first section on delivering sustainable development should include a reference to the UK sustainable development strategy. It may be helpful to outline the principles here (page 3, section 2.1).

The test of soundness requires the LDP to have been prepared in line with the Community Involvement Scheme. The CIS in turn should state the way in which the community is involved in the planning system. Participation is different from consultation, and to emphasise consultation undermines the Minister's stated commitment to participation (page 3, section 2.2).

The second LDP theme sends a strong message that it is acceptable to deal only with those statutory and non-statutory consultation bodies who are often already extensively engaged in the planning process. Dialogue with stakeholders is the only mention of a limited form of involvement, which certainly does not encompass the community or the concept of participation and broader communication. The diagram (figure 2.1) does not elucidate the preparation of an LDP and should be removed. The themes are different types – 'faster and more responsive plans' is a result, while 'participation' and 'SEA' are inputs. (page 4, section 2.3).

The SEA is a regulation and a legal requirement. Therefore the SEA and SA is not the same thing, although the work for both as recommended can be done in tandem, and the SA can be seen as an extension of the SEA. The manual is rather confusing, sometimes referring to SEA and SA and sometimes to just SA. This should be clarified.

The environmental considerations to which the SEA is relevant **should not be traded off** against the economic and social considerations which are raised as part of the SA proposal. The manual seems to be making an assumption that the process will include trade-offs as it states "If it proves impossible to reach consensus on a way forward it can help make trade-offs transparent" (page 6, section 2.3.2).

The SA must have environmental considerations as its foundation, from which assessments as to the viability of proposals in terms of achieving sustainable development are made. The SEA requires the preparation of an environmental report in which the likely significant effects on the environment of implementing the plan. Issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural and archaeological heritage, landscape and interrelationship between all these factors, must all be considered. In addition the directive requires that the public shall be given an early and effective opportunity within appropriate timeframes to express their opinion on the draft plan and the accompanying environmental report before the adoption of the plan (Art 6.1, 6.2).

Amendments to section 2

2.3 LDP Themes

Informing LDP production through sustainability appraisal and strategic environmental assessment (SEA), ~~to bring together evidence and consider the long-term implications of strategy options and policies in LDPs~~ **to ensure that the local plan is environmentally sound, and to bring together evidence and to consider the long-term implications of strategy options and policies for sustainable development through the sustainability appraisal (SA)**

Basing LDP production on a continuous dialogue with and between stakeholders on participation, ~~to consider a wider range of needs, with the aim of building consensus on the strategy and policies for LDPs;~~ **in order to ensure that the needs of the local community are**

considered, options and proposals are debated with the community, and results in strategies and policies that are owned by the community as a whole.

Delivering a faster and more responsive approach to plan-making with published timetables for preparation, fewer iterations of the plan before adoption, and regular strategic monitoring and review to enable plans to better reflect the changing circumstances in contemporary Wales; which creates opportunities for participation and communicates clearly the process for involvement and the timings involved, with regular feedback, strategic monitoring and review to enable plans to better reflect the needs of the local community and the context of Wales, environmentally, socially and economically.

Making plans that are more strategic, concise and distinctive in setting out a strategy for how an area will develop and change, based on a robust understanding of interdependencies between places (within and across administrative boundaries) and drivers for change in setting out a strategy for the **sustainable development** of an area that respects local culture, the existing local economy, and heritage, is resilient, and looks forward to address the challenges of the future.

2.3.2 Basing LDP production on a continuous dialogue with and between stakeholders ~~community involvement~~

The LDP will benefit from:

- A more robust evidence base, bringing together a range of data and intelligence from across a wide range of organisations and stakeholder perspectives **the community, a wide range of locally-based organisations, and local stakeholder perspectives**
- The ability to draw on the expertise of stakeholders in testing the implications of LDP options including the SEA/SA process **The involvement of the community in debating the LDP options, including within the SEA and SA process**
- **Building consensus around the main issues, strategic options and policies, and building commitment to implementation; or where it is difficult to build consensus, improving transparency and understanding of the LDP process as a sound and robust means of taking decisions; Arriving at decisions on the strategic options and policies with local community involvement, and building commitment to implementation; where there are contentious decisions, benefiting from open debate with the affected community, and a broad range of interests covering environmental, social and economic considerations and a transparent and well-communicated process of decision making**

[...] If it proves impossible to reach consensus on a way forward it can help **make trade-offs transparent to justify the decision in terms of a transparent process, adherence to the SEA and SA process, and in demonstrating the local community benefits.**

[...] It is important to focus on **targeting stakeholders and the quality not necessarily the quantity of the engagement involving the local community in appropriate methods throughout the process.**

2.3.2 Ensuring policy integration

[...] LDP production should be based on a broad understanding of likely resource availability, informed by the investment plans of relevant public bodies, and an assessment of private sector interests **by the strategic plans of relevant public bodies and an assessment of the contribution of the charitable and voluntary sector.**

2.4 Focussing on delivery

[...] Key delivery indicators will include **the number of permissions for developments granted through development control decisions and development completions against targets in the plan indicators for sustainable development, as described in Chapter 8.**

Figure 3.1 Main stages

Adapt the figure to state SEA and SA. Change consensus building for community involvement. Change 'consultation results' to participation input. Add a mention that the pre-deposit consultation must include a participation strategy (including communication, outreach, methods etc). At the stage where new or alternative site proposals are advertised, add that neighbours or people and community groups likely to be affected need to be involved. Add a loop to provide feedback to the community before the LDP is submitted to WAG. Add communication and feedback from the local community at the monitor and review stage.

3 DELIVERY AGREEMENT

The planning reform agenda must reach out to all sections of the community; particularly those with little knowledge of planning and without the benefit of membership of influential local and national groups. This means providing clear guidance in the LDP manual that the active participation of all sections of the community is required. The regulations only require Local Authorities to engage with specific statutory and non-statutory bodies. Our amendments to the LDP manual seek to interpret the Ministerial statement which states that Local Authorities have a wider duty to engage local people and organisations with an interest in the development of the area, **and not just stakeholders** as the manual's second paragraph seeks to convey.

We are disappointed that the LDP Manual in section 3.4.3 *Content and format of the CIS* is merely compliant with regulations rather than outlining the spirit and meaning of community involvement. The LDP regulations do no more than specify the very minimum standards of consultation with existing statutory and non-statutory bodies. The title of the section in regulations - 'pre-Deposit public participation' is disingenuous, as regulations 15, 16 and 17 go on to set out only formal procedures for advertising and dealing with representations. These are minimal consultation arrangements and have nothing to do with the more empowering notion of participation which requires the active engagement of communities.

ODPM's Community Involvement in Planning states that an effective SCI would identify links with other community involvement initiatives, identify the range of local community groups who need to be involved, and would be clear about the different stages of involvement – information, participation, consultation, feedback etc.

Amendments to Section 3

3.1 Role of the delivery agreement

[...] Local planning authorities will need to think through the aims, scope and priorities for the LDP and the most effective forms of engagement, ~~with emphasis on structured dialogue with key stakeholders about the evidence and options~~ **with emphasis on ensuring that the broader local community is engaged at the very earliest possible stage**

[...] Preparing a delivery agreement has a number of effects:

- It alerts ~~external partners and informs stakeholders and the community from whom inputs will be sought in the LDP preparation process~~ **the community to the process of involvement in the creation of the LDP, and outlines generally how they will be involved**

Figure 3.2: the Delivery Agreement

Add a section that the draft CIS should be published for feedback from the community. As the Minister states, the community should be involved at the earliest opportunity, and the LPA has an opportunity here to ensure that the CIS will be successful by involving the community appropriately.

3.2 LDP Themes

Add SEA to “SA” in the first sentence. Community involvement should replace ‘stakeholder and community dialogue’. Inconsistency between these terms will be confusing as they mean different things. We recommend that the LDP manual refers to community involvement and participation instead of variously stakeholders, dialogue, etc. A section can then be devoted to explaining community involvement and participation – see the ODPM guidance on *Community Involvement in Planning*.

3.3.2 Considering factors that might influence the timetable.

*Add: **Community involvement** Authorities should consider how different stages involvement will need to be given sufficient time to work – providing information, participation through different methods (workshops, surveys, interviews, open space, facilitated meetings), consultation, and feedback. In addition, involving hard to reach groups or disadvantaged groups, requires more time in order to explain the LDP and the process, its purpose, and provide capacity building and education time in order to make it possible for people to contribute appropriately.*

4 EVIDENCE GATHERING AND OBJECTIVES

Friends of the Earth Cymru recommend that section 4.3 is revised to reflect the sequential approach in greater detail. The sequential test should be the primary criteria for the evaluation of developments in all policy areas in order to effectively uphold the principles of sustainable development. In order to achieve sustainable development and travel patterns and to protect and conserve areas of recognised environmental and amenity importance, LDPs should adopt the following sequential approach towards the identification of locations for development:

- the re-use of previously developed land and buildings (brownfield sites) within urban areas;
- on other previously developed land well connected to public transport links;
- new locations within urban areas subject to the need to protect and conserve areas of recognised environmental and amenity interests;
- on other sites and locations which are well located to achieving sustainable development and reducing the need to travel.

The request for qualitative information should be tempered with the presumption that the suggestions made in section 4.3.3 only outline asking those with vested interests to provide qualitative information.

Amendments to Section 4

4.3.3 Data and topic studies

We recommend a revision of the paragraph outlining qualitative information to emphasise the role of community views.

4.3.4 Land needs and availability

We recommend a revision of this section towards the use of the sequential approach to identify sites, and then emphasise the engagement of the community in order to identify need, particularly through housing associations and community organisations.

4.5 SA/SEA

All the first round LDPs will be subject to ~~SA/SEA~~ SEA according to EU Directive 2001/42/EC. The Assembly also requires the LDPs to be subject to an SA, which can be

completed at the same time as the SEA. However the SEA must provide an environmental report covering the following issues: biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural and archaeological heritage, and landscape. The environmental authorities and public must be given an early and effective opportunity within appropriate time frames to express their opinion on the draft plan and the accompanying environmental report before the adoption of the plan.

In section 4.5 SA/SEA the process of the SEA is not clearly explained. We would recommend much clearer explanation of the requirements of the directive such as the following:

SEA allows for a systematic and holistic assessment of development options in line with national and international policy and treaty obligation on important issues such as climate change. SEA also has a crucial role to play in providing comprehensive baseline information and in understanding the range of potential environmental impacts that arise from strategic development options. SEA should require the collection of primary data on issues such as greenhouse gas emissions and should be conducted in the most participative way possible.

5 STRATEGIC OPTIONS AND PREFERRED STRATEGY

Friends of the Earth Cymru recommend that this section is revised to accurately reflect the Minister's aim of early involvement in the planning system for the community. The aim of the consultation should be that the community has a say in the shape of development or adaptation of their community.

Consistency is also an issue with SA and SEA sometimes being referred to together and sometimes separately, without a clear indication of when the requirements of the directive apply.

It also seems that the model for development is one of growth (section 5.3.1) rather than one of sustainable development. This should be revised in light of the UK sustainable development strategy. Friends of the Earth Cymru recommends that it is the principles supported by the Assembly and the needs of the community that are put first.

Amendments to section 5

Friends of the Earth Cymru recommends that this section is revised to reflect the selection of strategic options and preferred strategy through the criteria of sustainable development, particularly the sequential testing approach.

6 LDP PREPARATION AND DEPOSIT

This section fails to provide emphasis to the Assembly's own guidance. It states that the LDP "could also consider" Assembly policy and PPW 2002. It seems unfortunate that the Assembly's own policies and guidance are not referred to here more positively, and even named and introduced. It is also unclear where the "strategy" outlined in section 6.3.2 has come from.

Amendments to section 6

Friends of the Earth Cymru recommends the following overarching policy statement:

It shall be the principal objective of the LDP to ensure sustainable patterns of development which improve the quality of life of all people, while respecting environmental limits and the ability of future generations to enjoy a similar quality of life. In order to uphold this objective, all land use decisions must enshrine the principles of:

- **environmental justice:** putting people at the heart of decision making, reducing social inequality by upholding environmental justice in the outcomes of decisions;
- **inter-generational equity:** ensuring current development does not prevent future generations from meeting their own needs;
- **environmental limits:** ensuring that resources are not irrevocably exhausted or the environment irreversibly damaged. This means, for example, supporting climate protection by reducing harmful emissions, protecting and enhancing biodiversity and promoting the sustainable use of natural resources;
- **resource conservation:** ensuring that planning decisions assist in the prudent and sustainable use of finite natural resources;
- **the precautionary approach:** the precautionary principle holds that where the environmental impacts of certain activities or developments are not known, the proposed development should not be carried out, or extreme caution should be exercised in its undertaking;
- **the polluter pays:** ensuring that those who produce damaging pollution meet the full environmental, social and economic costs;
- **the proximity principle:** seeking to resolve problems in the present and locally, rather than passing them on to other communities or future generations.

ADDITION: DEVELOPMENT CONTROL

The LDP could make reference to the Development Control and the participation process it entails. The LDP manual could encourage LPAs to prepare a single Community Involvement Scheme to cover development control, as in England with SCI's, even though the regulations as they stand do not require this.

-Ends-