

**REPORT OF THE PLANNING OFFICER (PARK DIRECTION)**

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**SUBJECT: CONSULTATION RESPONSE TO THE REVISION OF PLANNING POLICY WALES (PPW) “CHAPTER 12 INFRASTRUCTURE AND SERVICES” AND TECHNICAL ADVICE NOTE (TAN) 21 “WASTE” BY WELSH GOVERNMENT**

Purpose of this report

An item for information – for members to note your officer’s response on behalf of the Authority to the above draft consultation documents on national planning policy and guidance by Welsh Government.

Background

Welsh Government is proposing a series of changes to the current national planning policy and guidance in relation to waste and in doing so have gone out to consultation on draft revisions to PPW Chapter 12 (specifically paragraphs 12.5-12.7.2) and TAN 21 Waste.

The main changes being proposed are:

- Acknowledging that waste policy targets and drivers have evolved and consequently the Regional Waste Plans, which are based upon land take, are now outdated and should be revoked.
- Introducing a requirement for data collection, monitoring, and annual reports. These can be used as evidence to support development plans and planning decisions.
- Introducing a requirement to keep a minimum amount of landfill capacity in each region (North, South West & South East) relative to a trigger point (the level for this trigger point is part of this consultation). Hitting the trigger will result in a site search and selection process to identify suitable locations for landfill<sup>1</sup>.
- Updating the policy direction to enable waste facilities to move up the waste hierarchy through the introduction of a Waste Planning Assessment (WPA)<sup>2</sup>.

The consultation period on the above ran from 21<sup>st</sup> March 2013 to 14<sup>th</sup> June 2013.

In the officer’s response on behalf of the Authority, the comments made by Mr Hugh Towns, as Chair of the Planning Officers Society Wales Minerals and Waste Topic Group were fully supported. In addition to Planning Officers Society Wales’

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<sup>1</sup> The “*trigger point*” is calculated in terms of the remaining number of years of void landfill space for each region, based on landfill capacity and deposition rates. For further information see the Planning Officers Society Wales’ response form, questions 4a-4c, which is attached in Annex 1.

<sup>2</sup> The “*waste hierarchy*” ranks waste prevention and management options according to what is best for the environment. It is set out at Article 4 of the revised Waste Framework (Directive 2008/98/EC). The hierarchy, from the highest to lowest desired outcome is as follows: Prevention – Re-use – Recycle – Recover – Disposal.

comments, concern was expressed over the revocation of the South West Wales Regional Waste Plan, as within this plan, National Park Authorities are identified as exclusion areas when locating waste facilities serving more than one local authority area – regional facilities. Within the adopted Pembrokeshire Coast National Park Local Development Plan (2010), Policy 27 *Local Waste Management Facilities* remains consistent with this approach. The Authority therefore expressed a wish to retain this safeguard within national planning policy, in respect of National Park purposes and duty. Both the Planning Officers Society Wales' and Authority's responses are attached to this report (see Annex 1).

### **Recommendation:**

**Members are asked to NOTE the above Report as this Authority's response in respect of the Welsh Government's consultation on the above proposed revisions to PPW and TAN 21 Waste.**

*(For further information, please contact Richard James, Planning Officer (Park Direction), extension 4875)*

*Background documents:*

Welsh Government consultation information and documents:

<http://wales.gov.uk/consultations/planning/planning-for-waste/?lang=en>

Pembrokeshire Coast Local Development Plan:

<http://www.pembrokeshirecoast.org.uk/default.asp?PID=178>

South West Wales Regional Waste Plan 1<sup>st</sup> Review:

[http://www.walesregionalwasteplans.gov.uk/pdfs/sw\\_pdf/SWW\\_RWP\\_1st\\_Review\\_August08.pdf](http://www.walesregionalwasteplans.gov.uk/pdfs/sw_pdf/SWW_RWP_1st_Review_August08.pdf)

**REVISION TO PPW CHAPTER 12 AND TECHNICAL  
ADVICE NOTE 21: WASTE: CONSULTATION RESPONSE  
OF THE POSW MINERALS AND WASTE TOPIC GROUP.**

<b>Consultation questions</b>
<b>Q1. Do you agree that the draft planning policy (PPW &amp; TAN21), as proposed, make clear how planning policy interacts with the waste objectives, priorities and targets?</b>
A1. Yes for municipal waste. There is an understandable focus on municipal waste, however, there is less clarity in terms of other waste types.
<b>Q2a. Do you agree that the draft planning policy, as proposed, will be effective in identifying suitable locations for mixed municipal waste disposal and recovery operations?</b>
A2a. The draft TAN removes the need for local authorities to automatically allocate land for waste management but allows local planning authorities to consider the need for waste management as part of employment land allocations within the LDP. This recognises that many waste management facilities can be considered akin to other employment uses and can be suitably located on industrial estates. It also allows for the fact that there may be an element of double counting if waste management facilities are not considered as part of an employment land supply survey (because historically the take up of employment land will include sites used for waste management). However, it must be recognised that there may be some types of facility which may not be appropriate on an industrial estate, for example open windrow composting.  The definition of municipal waste within the document doesn't accord with the revised definition of municipal waste (which includes commercial and industrial wastes which are similar in composition to LACMW collected by commercial operators). Whilst municipal waste is defined in the glossary of terms at the rear of the document the implication of only considering local authority collected municipal waste potentially ignores the needs of 3 <sup>rd</sup> party waste (i.e. industrial and commercial waste which is not collected by a local authority). For example, paragraph 3.23 discusses ' <i>specific actions in relation to treatment for mixed municipal waste to ascertain whether support for any local authority procurement programmes is necessary...</i> ' This should rightly include the needs of 3 <sup>rd</sup> party waste and may be particularly important where there is likely to be a question of need. Indeed, whilst Article 16 of the Waste Framework Directive considers municipal wastes collected from private households (including where such collections include waste from other producers), the CIMs projects estimated need for industrial, commercial and local authority municipal wastes <sup>1</sup> . A simple way to address this point would be to change the definition of 'municipal waste' in the glossary and to advise, within paragraph 3.23, that in addition to local authority procurement programmes LPAs should engage with the waste industry. This can then link in with the requirement to reflect any agreement contained in the regional annual monitoring report (which may be informed by feedback received during an LDP process). Paragraph 3.25 does do this to a point, but as part of the wider identification of sites for waste management and doesn't link back to the monitoring report.

<sup>1</sup> Construction and Demolition wastes are not included due to uncertainties in the data.

**Q2b. Do you agree that the draft planning policy, as proposed, will be effective in facilitating the delivery of an adequate and integrated network of mixed municipal waste infrastructure?**

A 2b. Much of the infrastructure needed to deal with residual municipal waste is already in the pipeline and so the infrastructure is already largely being facilitated by the existing planning framework. There is a mechanism proposed within the document by which problems can be identified and through which further guidance can be provided (through the annual monitoring reports). However, problems could arise where provision is made for local authority wastes with little or no provision for 3<sup>rd</sup> party wastes. Waste arisings are likely to be too low to attract the market to act and this may perpetuate the use of landfill and/or push up the cost of waste management. The monitoring role and triggers for action shows how Wales will address a need for landfill but it does not provide a mechanism for dealing with a need for residual waste treatment should a need arise. However, there is a recognition that LPA's can only seek to facilitate provision of an adequate and integrated network of infrastructure. It is for the industry to actually provide it.

**Q3. Do you agree that the revised TAN21 provides clear guidance on how local planning authorities can consider the provision of all types of waste infrastructure and facilities in a period in which the capture and management of waste is evolving?**

A3. Waste management is changing very quickly so there is a need to ensure local policy can respond to changes. Monitoring will be key to enabling LDPs to respond to changes, as will the use of criteria based policy for those facilities which are not conventionally located on industrial estates, or which have specific requirements because of their size. One particular issue with waste management can be the relative low cost compared with other land uses, which can make location on industrial estates problematic, particularly for local authority provided sites. The need for a degree of flexibility should be emphasised in the document.

**Q4a. Do you agree with the proposal to retain a minimum level of landfill capacity and void in each region (N, SW & SE) relative to a specified trigger point?**

A4a. Yes, although it is essential that there are adequate caveats within the TAN to enable locationally specific issues to be taken into account. It should also be clarified whether or not this applies to extensions to existing landfills (both of void space and time). It would be helpful to have a maximum *and* minimum – i.e. a threshold above which it would be undesirable to provide additional landfill capacity and a trigger point which it would be undesirable to go below.

**Q4b. Do you agree that this trigger should be based upon a number of years of void space? If not what should be used instead?**

A4b. The number of years void space seems a sensible method to monitor landfill capacity. The method of calculating the number of years of void space is the critical question. Natural Resources Wales provides estimates of landfill life in years based upon current deposition rates and remaining void space. The trend since 2007 has been one of declining landfill deposition rates. This trend is expected to continue given changes in Welsh Government policy, landfill tax increases and other drivers which are encouraging both local authorities and the private sector to divert waste from landfill. Thus the volume of waste going to landfill is likely to continue to fall, therefore the level of void which is required to accommodate a years worth of arisings will be much less in 5 years time compared with today.

Neither the predictions made by the Welsh Government nor the estimates based upon existing deposition rates are likely to be completely accurate because of the underlying assumptions used to derive them. In order to address this, it would seem sensible to use existing rates of deposition with a shorter trigger point (5 years – see

response to Q.4c below) to avoid overprovision of landfill. Careful monitoring would then be required to ensure that anticipated trends continue. Should the trend not continue to decline (e.g. if deposition rates start to increase significantly) then close attention should be paid to the trigger point and intervention considered.

**Q4c. How many years [6, 8, or 10] of void space capacity do you consider to be the most appropriate trigger point?**

A4c. If existing deposition rates (which overestimates the rate at which void will be used up) were selected, 5 years (i.e. it should not go below 5 years) would seem an appropriate trigger point as this (the void in years) will effectively increase over time as a result of declining deposition rates. It would allow sufficient time within which to secure an allocation within an LDP and for a site to be brought forward. It is suggested that where the void in a region is above 7 years, no new landfills should be permitted (unless there are exceptional circumstances which can be demonstrated) because of the need to allow a facility to be developed that is economically viable. Allowing an additional landfill will significantly extend the life in years of landfill void in a region and may result in void which never gets used up. It may also result in other landfills not being restored or perpetuate the use of landfill through overprovision (and the resultant competition which drives down gate fees). Furthermore, it needs to be accepted that any new landfills that are developed will draw waste from an increasingly wider area. Careful site selection is therefore required. Careful consideration should also be given to any opportunities for the use of alternative forms of transport to move the waste.

**Q5. Do you agree with the proposals on the production of Annual Monitoring Reports to be produced by Local Planning Authorities in conjunction with Natural Resources Wales?**

A5. The monitoring and triggers for further action provide a mechanism by which landfill can be addressed, however, as discussed above it should include a way of addressing any shortfall in residual waste treatment as well as landfill.

The site search and selection process, which is to be undertaken at the regional level, the purpose of which is to identify a list of preferred suitable sites, seems to set the framework for future development consent of projects listed in the EIA Directive. It is therefore suggested that the Welsh Government confirm whether this process will require SEA or not. A consideration of alternatives is required under the SEA Directive, but, if this is done at the regional and not the local level does this not mean that SEA should be done at the regional level also? Also, what about Appropriate Assessment? It is suggested that advice is sought from NRW on these points.

**Q6. Do you agree that the Waste Planning Assessment will assist Local Planning Authorities to identify how the proposed development will contribute towards meeting Wales' objectives for waste, as set out in the Revised Waste Framework Directive, Towards Zero Waste, and the CIM Sector Plan?**

Given the TAN requires consultation to be undertaken by the applicant it would seem sensible for the Waste Planning Assessment to require an applicant to identify what consultation they have undertaken.

It is not clear when an applicant will need to include a statement of compliance with policy related to need and location. Should the requirement to calculate existing and projected demand (and treatment capacity shortfall) relate to recovery and disposal only given that there is insufficient information to demonstrate what the need is for other types of facility and what the benefit would be?

**Q7. What further guidance, if any, would you like to see in the draft planning policy, as proposed?**

Design guidance – the application of the requirements of TAN 22 would be helpful as many waste facilities can be considered to have an inherent low energy requirement or have large areas which are unoccupied by workers.

There can be considerable benefit in engaging with local communities prior to submission of a planning application. Lack of understanding about what is being proposed and the associated impacts can generate opposition which may be prevented or minimised through early engagement with local communities. Local communities possess a wealth of information about their local area and can often highlight issues which if addressed early on can save time and money. Engaging with Town and Community Councils can be particularly beneficial and they may be able to assist potential applicants in engaging with their communities. The potential benefits of engagement should be set out in the guidance.

**Annex B** Will local planning authorities be able to refuse to validate a planning application that is not accompanied by a waste planning assessment? The assessment includes a number of elements that applicants may or may not need to submit to support their application. It would be helpful to differentiate between the information likely to be required for significant infrastructure (landfill, EfW etc) compared with smaller scale. For example, the requirement to identify the “current shortfall in treatment capacity” should only apply to landfill and residual waste treatment (e.g. EfW, MBT etc) and not to transfer stations, recycling facilities etc. Given that we only have an indication of what we need in Wales for recovery and disposal it would seem unreasonable to apply this requirement to other types of facility.

**Annex C**

Para 8.2 seems to be directing all waste facilities away from national parks and AONBs. It is not clear whether the intention was for this restriction to apply to landfill only, however, as it is written it appears to apply to all waste facilities. Some smaller scale, less visually intrusive types of facility may be appropriately located within a national park or AONB.

**Planning Policy Wales: Revision to Chapter 12**

**Para 12.5.2** states “*The reality as we move from where we are now towards these aspirations is the need for planning authorities to facilitate the provision of a wide ranging and diverse waste infrastructure, which includes facilities for the disposal and recovery of mixed municipal and residual waste as well as those higher up the waste hierarchy*”.

The above wording implies that there *will* be a need for disposal facilities. Whilst this may be true, perhaps the inclusion of the word ‘may’ would be appropriate to indicate the uncertainty.

**Para 12.5.3** – The social and economic benefits of waste management are implied, but perhaps they should be stated explicitly. The environmental impacts are negative in this para (minimise adverse environmental...), but it’s important to remember why national policy is changing in the way it is. The main objective is to reduce the environmental impact of waste management by selecting methods which manage waste as a resource. Perhaps ‘*environmental*’ should be included alongside ‘*social and economic benefits*’.

**Para 12.5.4** makes an important point, that *‘proximity and self sufficiency will only be applicable in relation to wastes covered by Article 16 of the revised Waste Framework Directive (rWFD)’*, which is described as Directive 2008/98/EC on waste, OJ [2008] L312/3. Article 16 waste is mixed municipal waste collected from private households, including where such collection also covers waste from other producers. However, my interpretation of Art 16 is that it covers disposal (of all wastes) and recovery of municipal wastes.

The above needs to be spelt out very clearly in simple terms for the avoidance of doubt. It also needs to be made clear whether this applies to supporting infrastructure. Although this is done in the TAN (para 1.14), it would be helpful here. Clarity should also be given as to whether this applies to supporting infrastructure for disposal facilities.

**Para 12.6.3** suggests that LDP policies should *“demonstrate that opportunities to reduce or recycle waste as part of the design, construction and operation of new buildings have been identified.”* This is very difficult to do at the strategic level, particularly as specific land uses may not have been identified. For example, a strategic allocation for a mixed use site sets the principle of development in a particular location but detailed matters regarding the design are unlikely to be identified until the planning application stage. Would this not be better to do as part of either the SWM plan or the requirement to achieve Code or BREEAM (although some waste credits may be optional)?

**Para 12.7.2** states that *“the impact of proposals for waste management facilities on the amenity of local people and the environment must be adequately assessed”*. It may be helpful to clarify that this includes the built and natural environment. Furthermore, it would be helpful to highlight in this para that consideration should also be given to the benefits which can be derived from the proposal (more sustainable waste management, economic benefits etc).

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*We welcome correspondence  
in English and Welsh*

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Dear Sir/Madam

**Re : Planning for Waste – Consultation Response to the Revision to  
Chapter 12 of Planning Policy Wales and Technical Advice Note 21**

Thank you for the opportunity to comment on the proposed revisions to the above documents. After considering the revised documents, the National Park Authority fully supports the comments made by Mr Hugh Towns, as Chair of the POSW Minerals and Waste Topic Group. Please find enclosed the response referred to.

In addition to the comments referred to above, the Authority wishes to express concern over the proposal to revoke the Regional Waste Plans, as detailed within paragraph 24 (i) of Consultation Document No. WG17869. Within the South West Wales Regional Waste Plan 1<sup>st</sup> Review, August 2008, Appendix L, Section L7, National Park Authorities are identified as exclusion areas when locating facilities serving more than one local authority area – regional facilities. The plan identifies two options for the National Park Authorities, when planning for waste arising within their areas, as follows:

- National Park Authorities may plan for new facilities serving only the National Park area to be sited within the National Park area; and
- National Park Authorities and Unitary Authorities which cover the same area may work closely together to plan for new facilities serving both the National Park Authority and Unitary Authority areas to be sited outside the National Park. The provision of data on capacity requirements broken down by Unitary Authority area facilitates this arrangement.

This has informed the production of the local waste planning policy contained within the adopted Pembrokeshire Coast National Park Local Development Plan (2010), within which Policy 27 *Local Waste Management Facilities* remains consistent with the above options.

In respect of National Park purposes and duty, the National Park Authority would therefore wish to retain this safeguard and policy approach within national planning policy.

Yours sincerely

Richard James  
Planning Officer (Development Plans)