



Guidance to supplement Planning Guidance (Wales): Planning Policy will take the form of a series of topic based Technical Advice Notes. Further information is available from the Planning Division, Welsh Office, Cathays Park, Cardiff, CF10 3NQ or by telephoning (029) 2082 3585.

ISBN 0 7504 2343 9



Further copies of this note are available from:

The Oriel Bookshop/The Stationery Office
18/19 High Street, Cardiff CF10 1PT
(029) 2039 5548 Fax (029) 2038 4347

ISBN 0 7504 2343 9

© Crown copyright
First Published 1999
Reprinted 1999 with corrections

Contents

	<i>Para. No.</i>		<i>Para. No.</i>
Introduction	1	The Coast	6
Legislation	2	Green Belts	7
Primary Principles	3	- Inappropriate development in Green Belts	7.2
- The Planning System	3.1	Transport and Infrastructure	8
- Sustainable Development.....	3.2	- Transport	8.1
- Biodiversity.....	3.3	- Public Transport	8.2
- Europe	3.4	- Siting of Development	8.3
- The Development Plan and Material Considerations	3.5	- Parking	8.4
- Other Legislation	3.6	- Development Control.....	8.5
- Joint Working	3.7	- Strategic Roads	8.6
- The Welsh Language.....	3.8	- Utilities.....	8.7
- Economic Considerations	3.9	- Telecommunications	8.8
- Social Considerations.....	3.10	Housing	9
- Environmental Considerations.....	3.11	- Housing Land.....	9.1
General Principles	4	- Affordable Housing.....	9.2
- Environmental Impact Assessment	4.1	Economic Development	10
- Design	4.2	- Industrial & Commercial Development...	10.1
- Access and Disability.....	4.3	- Retailing & Town Centres.....	10.2
- Noise	4.4	- Development in Rural Areas	10.3
- Lighting.....	4.5	- Agricultural Development.....	10.4
- Personal Circumstances	4.6	- Re-use and Adaptation of Rural Buildings	10.5
- Private Interests.....	4.7	- Agricultural & Forestry Dwellings	10.6
- Propriety.....	4.8	Control of Outdoor Advertisements ...	11
- Standards.....	4.9	Tourism, Sport and Recreation	12
- Planning Conditions.....	4.10	- Tourism	12.1
- Planning Obligations.....	4.11	- Sport and Recreation.....	12.2
- Planning Permission.....	4.12	Energy	13
- Enforcing Planning Control	4.13	Waste Treatment and Disposal	14
- Permitted Development Rights	4.14	Land Reclamation, Unstable Land, Contaminated Land and Flood Risk ...	15
- Prematurity.....	4.15	- Land Reclamation	15.1
- Phasing.....	4.16	- Unstable Land and Contaminated Land...	15.2
Conservation of the Natural and Built Environment	5	- Flood Risk	15.3
- Countryside	5.1	Pollution	16
- Agricultural Land.....	5.2	Cancellation	17
- Landscape and Nature Conservation.....	5.3	Annex A	
- Historic Environment.....	5.4		
- Listed Buildings	5.5		
- Conservation Areas	5.6		
- Archaeology.....	5.7		

1. Introduction

1.1 This guidance sets out the Government's land use planning policies as they apply in Wales. Procedural advice is given in Welsh Office circulars. 'Planning Guidance (Wales): Planning Policy' is supplemented by a series of Technical Advice Notes. Planning Guidance, including Technical Advice Notes and circulars should be taken into account by local planning authorities in Wales in the preparation of development plans. They may be material to decisions on individual planning applications and will be taken into account by the Secretary of State and his Inspectors in the determination of called-in planning applications and appeals. Advice on the preparation of unitary development plans is contained in 'Planning Guidance (Wales): Unitary Development Plans', 1996.

1.2 National Assembly for Wales

The Government of Wales Act 1998 establishes and provides for the setting up of the National Assembly for Wales. The current land use planning powers of the Secretary of State for Wales will be transferred to the National Assembly for Wales by means of a Transfer of Functions Order. It is expected that the Order will become effective in July 1999. From the date the Order comes into effect references in Planning Guidance (Wales) Planning Policy First Revision to the Secretary of State will apply to the National Assembly for Wales.

1.3 Documents listed in the Reference column in the margin provide information which should be read in conjunction with this guidance.

2. Legislation

2.1 The primary legislation related to land-use planning is contained in:

- the Town and Country Planning Act 1990;
- the Planning (Listed Buildings and Conservation Areas) Act 1990;
- the Planning (Hazardous Substances) Act 1990.

Each of these Acts has been amended by the Planning and Compensation Act 1991.

Other amendments, related to the establishment of unitary authorities in Wales and requiring authorities to produce unitary development plans, are contained in the Local Government (Wales) Act 1994.

2.2 The main instruments of subordinate legislation are:

- the Town and Country Planning (General Permitted Development) Order 1995 (GPDO)(SI 1995 No 418);
- the Town and Country Planning (General Development Procedure) Order 1995 (GDPO)(SI 1995 No 419);
- the Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order) (SI 1987 No 764);
- the Town and Country Planning (Development Plan) Regulations 1991 (SI 1991 No 2794);
- the Town and Country Planning General Regulations 1992 (SI 1992 No 1492).

*Annex A lists
Planning Guidance
(Wales) and
Technical Advice
Notes (Wales).*

*Planning Guidance
(Wales): Unitary
Development Plans
Draft Revision 1998.*

*Government of
Wales Act 1998.*

*The National
Assembly for Wales
(Transfer of
Functions) Order
1999.*

*1
Technical Guide to
the Transfer of
Functions Order
1999.*

3. Primary Principles

3.1 The Planning System

3.1.1 The planning system regulates the development and use of land in the public interest. It should reconcile the needs of development and conservation, and secure economy, efficiency and amenity in the use of land, and protect natural resources thereby contributing to sustainable development.

3.1.2 The planning system must provide for an adequate and continuous supply of land, available and suitable for development taking account of the objectives, policies and proposals of the development plan, the scale of development proposed, the protection of the countryside and of statutorily designated areas, the conservation of landscape, historic sites and natural habitats, the protection of the best and most versatile agricultural land and the conservation of the urban environment. Full and effective use should be made of land within existing urban areas, including the bringing into use of derelict, unused or waste land and through conversion, redevelopment or change of use of buildings. The development of land in urban areas, particularly on previously developed sites, provided this creates or maintains a good living environment, should be considered before the development of greenfield sites. This will assist urban regeneration and reduce pressure for development on greenfield sites and in the countryside.

3.1.3 Development proposals are best determined locally by planning authorities who know their area, its needs and its sensitivities. The Secretary of State will be very selective about calling-in individual planning applications for his own determination. Such action will generally be taken only if planning issues of more than local importance are involved.

3.1.4 The planning system should be efficient, effective and simple in operation. It is not the function of the planning system to interfere with or inhibit competition between users of and investors in land or to regulate development for other than land use planning reasons. Applications for development should be allowed, unless the proposed development would cause demonstrable harm to interests of acknowledged importance. Where an application is refused the local planning authority must state clearly the reasons for the refusal. The local planning authority should have good reasons if it approves a development which is a departure from the development plan, contrary to the Government's stated planning policies, or against the advice of a statutory consultee.

3.1.5 Local planning authorities should decide 80% of planning applications within 8 weeks and should give applicants a firm date for deciding any application where this will take longer than 8 weeks. Authorities should encourage applicants to consult them before the formulation of their development proposals.

3.2 Sustainable Development

3.2.1 Sustainable development is commonly defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. The Government's vision of sustainable development is based on 4 broad objectives:

- maintenance of high and stable levels of economic growth and employment;
- social progress which recognises the needs of everyone;
- effective protection of the environment; and
- prudent use of natural resources.

*'Report of the
World Commission
on Environment
and Development'
(the Brundtland
Report) 1987*

*'Opportunities for
Change Consultation
Paper on a revised
UK strategy for
Sustainable
Development' DETR/
WO February 1998*

Reference

The National Assembly for Wales has a duty to make a scheme setting out how it proposes, in the exercise of its functions, to promote sustainable development. Although it will be for the Assembly to decide how to meet its sustainable development duty, it is likely to affect all the Assembly's functions, including those relating to planning.

A key role of the planning system is to provide homes, investment and jobs in a way which is consistent with the principle of sustainable development. Development plans should be consistent with this principle.

The Environment

3.2.2 Where there are significant risks of damage to the environment, the Government will be prepared to take precautionary action to limit the use of potentially dangerous materials or the spread of potentially dangerous pollutants, even where scientific knowledge is not conclusive, if the balance of likely costs and benefits justifies it. If there are significant risks of environmental damage it will be necessary to act on the basis of the precautionary principle.

3.3 Biodiversity

3.2.3. Maintaining biodiversity is an essential element of sustainable development and the planning system has an important part in countering decline in biodiversity. The Government has set a target for all local planning authorities to have Local Biodiversity Action Plans in place by the year 2000. In order that biodiversity considerations are incorporated into the planning system local planning authorities should address biodiversity issues (as they relate to planning) in their development plans.

*Government of Wales
Act 1998 S. 121*

*Sustainable
Development:
Towards Better
Practice Guide' 1998,
DETR*

*'Sustainable
Development: The
UK Strategy'.
Cm2426, HMSO,
1994*

*'Biodiversity the
UK Action Plan', Cm
2428, HMSO, 1994*

*'Government
Response to UK
Steering Group
Report on
Biodiversity',
Cm3260, HMSO,
1996*

*'Guidance for Local
Biodiversity Action
Plans', Guidance
Notes 1-5, UK Local
Issues Advisory
Group, Local
Government
Management Board/
UK Biodiversity
Group, 1997.*

*'The Context for
Local Biodiversity
Action Plans in
Wales', Supplement
to UK Guidance Note
3, Wales Biodiversity
Group, 1998*

*'Action for Wildlife:
Biodiversity Action
Plans in Wales',
CCW, 1996.*

3.4 Europe

Both the European Spatial Development Perspective (ESDP) and the European INTERREG IIC, community programmes on trans-national co-operation on spatial planning will provide a European context for planning guidance and the preparation of development plans. Other European Funding regimes will also be relevant, particularly the European Structural Funds.

*European Spatial
Development
Perspective Draft
(1999) -
Committee on
Spatial
Developmet*

*INTERREG IIC
Atlantic Area
Operational
Programme 1997-
99 (1997) -
Presented to the
European
Commission*

*INTERREG IIC
North West
Metropolitan Area
Operational
Programme 1997-
99 (1997)-
Presented to the
European
Commisson*

3.5 The Development Plan and Material Considerations

3.5.1. Development plans are intended to provide a firm basis for rational and consistent decisions on planning applications and appeals. Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. Conversely, applications which are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify the grant of planning permission. Material considerations must be genuine planning considerations, that is, they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest. Policies and proposals which are likely to provide the basis for determining planning decisions, or for determining conditions to be attached to planning permissions, should be set out in the development plan; policies on non-land use matters should not be included. Plan policies may set out criteria which should be taken into account in the assessment of development proposals. Planning authorities must ensure that they have sufficient information on which to base sound development plan policies and development control decisions.

*Town and Country
Planning Act
1990, Section 54A.*

3.5.2 Development plans should give developers and the public certainty about the type of development that will be permitted at a given location. If policies or proposals contained in a draft development plan appear to conflict with the Government's planning policy guidance and appear not to be justified by local circumstances the Secretary of State will draw this to the attention of the local planning authority and if necessary intervene in the plan process, by means of objection or direction to modify or by calling in all or part of a plan. The Secretary of State would expect to use his powers of direction sparingly. If the Secretary of State does not intervene in the plan process the local planning authority may assume that he is content with the plan at the time of adoption and will attach commensurate weight to it in decisions on appeals or called in applications.

3.6 Other Legislation

3.6.1 The planning system normally should not be used to secure objectives achievable under other legislation. The principle of non-duplication should be maintained even though the powers and duties resulting from other legislation may also be the concern of local authorities.

3.6.2 However, provided a consideration is material in planning terms it must be taken into account in dealing with a planning application notwithstanding that other machinery may exist for its regulation. Even where consent is needed under other legislation, the planning system may have an important part to play, for example, in deciding whether the development is appropriate for the particular location. The grant of planning permission does not remove the need to obtain any other consents that may be necessary, nor does it imply that such consents will necessarily be forthcoming.

3.6.3 Local planning authorities should look to the relevant agencies and/or utility companies for detailed guidance or advice where this is considered appropriate.

3.7 Joint Working

3.7.1 Many issues of concern to local planning authorities are likely to affect more than one authority and consultation and collaboration is necessary between all authorities likely to be affected. Standing Conferences or other organisational structures may provide suitable fora for such consultation and collaboration between authorities, and with other groups. Community Councils, voluntary bodies, the business community may have a role to play. Partnership with these and other bodies will inform the planning process and may avoid potential problems and conflicts.

3.8 The Welsh Language

3.8.1 Where use of the Welsh language is a component of the social fabric of a community it is appropriate that this be taken into account in the formulation of land use policies. Where a planning authority considers it appropriate to take account of the needs and interests of the Welsh language it should include in the reasoned justification of its development plan an explanation of how its policies reflect those matters. Decisions on individual cases where the needs and interests of the Welsh language may be a material consideration must, as with all other planning applications, be based on planning grounds only and be reasonable. In determining planning appeals where the Welsh language is an issue the Secretary of State and his Inspectors will expect local planning authorities to produce specific evidence of the land use planning considerations which have led to their decision.

*Welsh Office
Circular 53/88 'The
Welsh Language:
Development Plans
and Planning
Control'*

3.9 Economic Considerations

3.9.1 Development plans will not be effective unless they are realistic about resource availability and provide developers and others with scope to make choices to secure the efficient and effective use of those resources. Plans and development control decisions should take account of national and local economic and development policies. Plans should include an indication in broad terms of the assumptions made about the resources likely to be available for effecting the policies and proposals formulated.

3.10 Social Considerations

3.10.1 Development plans and development control decisions should take account of social considerations which are relevant to land use issues, such as the relationship of planning policies and proposals to social needs and problems, including their likely impact on the whole community, on women and men, or on groups such as elderly and disabled people, single parent families, ethnic minorities, disadvantaged and deprived people.

3.10.2 Social considerations will be relevant in assessing the need for affordable housing, in preparing measures for crime prevention, and for sport and recreation provision. Plans should make provision for land for schools and higher education, for places of worship and other community facilities.

*Welsh Office
Circular 2/94,
'Gypsy Sites and
Planning'*

3.11 Environmental Considerations

3.11.1 Most development plan policies and proposals will have environmental implications which should be appraised as part of the plan preparation process. A

*'Environmental
Appraisal of
Development Plans:
A Good Practice
Guide' DOE, 1993,
HMSO*

systematic environmental appraisal is the most effective way of ensuring that a plan helps facilitate sustainable development. It ensures that the objectives of a policy are clearly laid out and that the trade-offs between options can be identified and assessed. Such an appraisal should be distinguished from the requirement to have a formal Environmental Impact Assessment for specific development projects. Most planning applications do not require Environmental Impact Assessment but many will have environmental aspects which should be considered by local planning authorities.

4. General Principles

4.1 Environmental Impact Assessment

4.1.1 Environmental Impact Assessment (EIA) is the process by which information about the likely environmental effects of certain types of development is collected, assessed and taken into account, both by the developer, as part of project design, and by the local planning authority in deciding whether planning permission should be granted. The Regulations require EIA for all Schedule 1 projects and for Schedule 2 developments if the particular proposal is judged likely to have significant environmental effects by virtue of factors such as its nature, size or location. Developers can decide for themselves that projects fall within the scope of the statutory provisions, otherwise it will fall to the local planning authority to decide whether EIA is required. Local planning authorities are required to record formally whether or not schemes over a certain size or those located in sensitive areas require EIA. A developer who is dissatisfied with the planning authority's view that EIA is required may seek a direction from the Secretary of State.

4.1.2 Where EIA is required, the developer must prepare and submit an Environmental Statement (ES) to accompany the planning application, setting out the information specified in Schedule 4 to the Regulations. While the responsibility for compiling the ES rests with the developer, there should be consultation with those with relevant information. Public authorities who have such information in their possession are required to make it available to the developer. The period within which the local planning authority should determine an application to which EIA applies is 16 weeks from the date of receipt of the ES. The main reasons on which the eventual decision is based whether to grant or refuse the application, must be provided by the local planning authority. All planning applications accompanied by environmental statements submitted prior to 14 March 1999 are subject to the 1988 Environmental Assessment Regulations (SI 1988/1199) as amended (by SI 1990/367, SI 1992/1494, SI 1994/677). In addition the provisions of SI No 1995/417 (relating to EA and Permitted Development Rights) and SI 1995/2258 (relating to EA and unauthorised development) will continue to apply to planning cases submitted prior to 14 March 1999. Further advice in relation to these cases is included in TAN 17.

4.2 Design

4.2.1 Good design should be the aim of all those involved in the development process and should be encouraged everywhere. This aim should apply to all proposals which affect the built or natural environment including construction or alteration of individual buildings and groups of buildings together with their settings, and larger development proposals. Good design can help promote sustainable development; improve the quality of the existing environment; attract business and investment; and reinforce civic pride

Council Directive 85/337/EEC (as amended by Council Directive 97/11/EC).

SI No 1999/293 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Welsh Office Circular 11/99, 'Environmental Impact Assessment'. (To be issued Spring 1999)

'Environmental Impact Assessment' - Guidance on Screening (May 1996)- European Commission

'Environmental Impact Assessment' - Guidance on Scoping (May 1996)- European Commission

'Evaluation of Environmental Information for Planning Projects' HMSO, 1994

'Preparation of Environmental Statements for Planning Projects that require Environmental Assessment', HMSO, 1995

Technical Advice Note (Wales) 17, Environmental Assessment (1998)

Technical Advice Note (Wales) 12, 'Design', 1997

and a sense of place. It can help to secure continued public acceptance of necessary new development.

4.2.2 The appearance of proposed development, its scale and its relationship to its surroundings are material planning considerations. Development plans should provide clear indications of local planning authorities' design expectations. Local planning authorities should not attempt to impose a particular architectural taste or style arbitrarily. However it is, proper to seek to promote or reinforce local distinctiveness particularly where this is supported by clear plan policies or supplementary design guidance. Local planning authorities should reject obviously poor designs, but should not concern themselves with matters of detailed design except in sensitive areas where such matters have a significant effect on the character or quality of the area, including neighbouring buildings. Particular weight should be given to the impact of development on the character of areas recognised for their landscape or townscape value, such as National Parks, Areas of Outstanding Natural Beauty and conservation areas, where the scale of new development and the use of appropriate building materials will often be particularly important. The impact on existing buildings should be given particular attention in relation to listed buildings.

4.2.3 Crime prevention can be a material consideration when considering planning applications. Local authorities are under an obligation to consider the need to prevent crime in all decisions they take. There should be a balanced approach to design which attempts to reconcile the visual quality of a development with the need for crime prevention.

4.3 Access and Disability

4.3.1 The development of land and buildings provides the opportunity to secure a more accessible environment for everyone, including wheelchair users and other people with disabilities, elderly people, and people with young children. Developers and local authorities should consider the issues of access at an early stage in the design process. The appropriate design of spaces between and around buildings and of parking provision is particularly important in ensuring good access to buildings. When a new building is proposed, or an existing building is being extended or altered, developers should consider the need to provide access for all those who might use the building.

4.3.2 Where it is not clear from a planning application that provision for disabled people is being achieved, it will be preferable to resolve the issue through negotiation. If there is a clear planning need it may be appropriate to impose a condition to ensure adequate access for disabled people. Where the public are to have access to the building, the planning authority should consider the extent to which the securing of provision for disabled people can be justified on planning grounds. But local planning authorities have a duty, when granting planning permission for a wide range of buildings to which the public are to have access, to draw applicants' attention to their statutory obligations.

Crime and Disorder Act, 1998

Welsh Office Circular 16/94, 'Planning Out Crime'

Building Regulations, 1991 Approved Document M, Access and Facilities for Disabled People

Chronically Sick and Disabled Persons Act 1970

Welsh Office Circular 35/95 The Use of Conditions in Planning Permissions

Disability Discrimination Act 1995

'British Standards Institutions Code of Practice for Access for the Disabled to Buildings', BS 5810, 1979

Design Note 18, 'Access for Physically Disabled to Educational Buildings', 1984

4.4 Noise

4.4.1 Noise can affect health and have a direct impact on local amenity. It can therefore be a material planning consideration, for example in proposals to use or develop land near an existing source of noise or where a proposed new development is likely to generate noise. Local planning authorities should make a careful assessment of likely noise levels before determining such planning applications.

4.4.2 Development plan policies should be designed to ensure, as far as is practicable, that noise sensitive developments, such as hospitals, schools and housing, are located away from existing sources of significant noise like road, rail, air transport and some industrial activities or programmed development such as improved or new roads. Policies should also be designed to ensure, as far as possible, that potentially noisy developments are located in areas where noise will not be such an important consideration or where its impact can be minimised. Local planning authorities may adopt policies to prevent potentially noisy developments in areas which have remained relatively undisturbed by noise.

4.4.3 Special consideration is required where noise generating development is proposed in or near statutorily designated areas. The effect of noise on the enjoyment of other areas of landscape, wildlife and historic value should also be taken into account..

4.5 Lighting

4.5.1 There is a need to balance the provision of lighting to enhance safety, help in the prevention of crime and to allow activities like sport and recreation to take place, with the need to protect the natural environment, to prevent glare and respect the amenity of neighbouring land uses.

4.6 Personal Circumstances

4.6.1 Unless otherwise specified, a planning permission runs with the land and it is seldom desirable to provide for any other arrangement. Exceptionally, even though such considerations will rarely outweigh the more general planning considerations, the personal circumstances of occupiers, personal hardship or the difficulties of businesses which are of value to the local community, may be material to the consideration of a planning permission. In such circumstances, a permission may be granted subject to a condition that it is personal to the applicant.

4.7 Private Interests

4.7.1 The planning system does not exist to protect the private interests of one person against the activities of another. Proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. The Courts have ruled that the individual interest is an aspect of the public interest, and it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties. However, such consideration should be based on general principles, reflecting the wider public interest, (for example a standard of “good neighbourliness”) rather than the concerns of the individual.

4.8 Propriety

4.8.1 Members of the local planning authority should consider the interests of the whole local community in planning matters. When determining planning applications they must take into account any relevant view on planning matters expressed by neighbouring occupiers, local residents and any other third parties. While the substance of local views must be considered, the duty is to decide each case on its planning merits. As a general principle, local opposition or support for a proposal is not, on its own, a reasonable ground for refusing or granting a planning permission; objections, or support, must be based on valid planning considerations. There may be cases where the development proposed may give rise to public concern. The Courts have held that perceived fears of the public are a material planning consideration that should be taken into account in determining whether a proposed development would affect the amenity of an area and could amount to a good reason for a refusal of planning permission. It is

*Technical Advice
Note (Wales) 11,
'Noise', 1997*

*'Lighting in the
Countryside:
Towards Good
Practice', DoE
and Countryside
Commission,
1997*

for the local planning authority to decide whether, upon the facts of the particular case, the perceived fears are of such limited weight that a refusal of planning permission on those grounds would be unreasonable. Members should make planning decisions on the basis of officers' written reports and advice and should have good reasons, based on land use planning grounds, if they choose not to follow such advice. Such reasons should be recorded.

4.8.2 The National Code of Local Government Conduct sets out recommended standards of conduct for elected Members in the performance of their duties. A breach of the Code may constitute maladministration. Elected members must declare any pecuniary or personal interest in any application before them and in most cases should not speak or vote on any proposal where they have such an interest.

'The National Code of Local Government Conduct', April 1990

4.9 Standards

4.9.1 The Citizen's Charter was launched by the then Government in 1991 as a ten year programme to raise the standard of public services and make them more responsive to the wishes and needs of their users. Planning authorities should be particularly aware of the need to:

'Service First the New Charter Programme' Cabinet Office, 1998.

- set performance standards, publicise them and monitor performance against standards;
- give clear information about how people can comment on a planning application and, if they wish, how they can complain about the performance of a local planning authority;
- ensure that all interested parties are fully consulted about planning applications;
- make advice from professional officers easily available to members of the public; and
- monitor user satisfaction, for example, by periodic surveys.

'Planning Charter Standards', DoE, Welsh Office and the National Planning Forum, 1994.

'Development Control - A Charter Guide', DoE, Welsh Office and the National Planning Forum, 1993.

'Development Control - A Guide to Good Practice', Welsh Office, 1993.

'Development Control in National Parks: A Guide to Good Practice', the Countryside Commission and the Association of National Park Authorities, 1996

4.10 Planning Conditions

4.10.1 Conditions imposed on a planning permission by the local planning authority (or, where the application is determined by him, the Secretary of State) can enable many development proposals to proceed where it would otherwise be necessary to refuse planning permission. The proper use of conditions can improve the quality of development control and enhance public confidence in the planning system.

Conditions should only be imposed where they are:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise;
- reasonable in all other respects.

Where appropriate, development plans should specify the policies for certain types of development which the authority propose to implement regularly by means of planning conditions.

4.10.2 Planning permission cannot be granted subject to conditions which specifically require works on land outside the application site and outside the control of the applicant. However it is possible for local planning authorities to grant permission subject to a condition that development should not be commenced or occupied until some obstacle to the development has been surmounted.

4.11 Planning Obligations

4.11.1 When granting planning permission local planning authorities may seek to enter into a planning obligation with a developer to:

- restrict development or use of the land;
- require operations or activities to be carried out in, on, under or over the land;
- require the land to be used in specified way; or
- require payments to be made to the authority either in a single sum or periodically.

4.11.2 A planning obligation may be entered into by means of a unilateral undertaking by a developer or by agreement between a developer and a planning authority. Planning obligations run with the land, so they may be enforced against both the original covenantor or anyone subsequently acquiring an interest in the land.

4.11.3 A planning obligation may be modified or discharged by agreement between the authority and the person or persons against whom the obligation is enforceable or by application to the authority (upon the expiry of five years from the date of entering into the obligation). An applicant has a right of appeal to the Secretary of State against a determination or the authority's failure to give notice of that determination.

4.11.4 As a matter of policy, planning obligations should only be sought where they are necessary to make a proposal acceptable in land use planning terms. Planning permission may not be bought or sold and negotiations should be conducted in a way which is seen to be fair, open and reasonable. Unacceptable development should never be allowed because of unrelated benefits. Acceptable development should never be refused simply because an applicant is unwilling to offer such benefits. If there is a choice between imposing conditions and entering into a planning obligation, the imposition of a condition is preferable because it enables a developer to appeal to the Secretary of State.

*Welsh Office
Circular 35/95,
'The Use of
Conditions in
Planning
Permissions'.*

*Welsh Office
Circular 13/97,
'Planning
Obligations'.*

4.12 Planning Permissions

4.12.1 Where a material start has been made but development is not proceeding, local planning authorities have the power to serve a Completion Notice. The Secretary of State expects local planning authorities to be aware of this power should they consider it necessary to resolve uncertainty created by an incompletely exercised permission.

4.12.2 Applications for renewal of planning permission should be determined in accord with the up to date development plan, and with due regard to Government planning guidance. With regard to retail and leisure developments this means that applications should be considered using the sequential test. (See para. 10.2.5).

4.13 Enforcing Planning Control

4.13.1 The Secretary of State considers that the integrity of the development control process depends on the local planning authority's readiness to take effective enforcement action when it is essential to prevent or remedy serious harm to amenity resulting from unauthorised development. When considering whether formal enforcement action is appropriate, the decisive issue for the authority is whether the breach of control would unacceptably affect public amenity, including the existing use of land and buildings meriting protection in the public interest. Any enforcement action which the local planning authority decides to take should always be commensurate with the alleged breach of control it seeks to remedy.

4.13.2 Enforcement action should not normally be taken solely to regularise unauthorised development for which planning permission, if sought, would be granted unconditionally. The better approach is to persuade the owner or occupier of land to apply for planning permission by explaining the disadvantages of having no authorisation for the development which has taken place. In other cases where unauthorised development has occurred, but it could be made acceptable by the imposition of planning conditions, the local planning authority should normally discuss a possible grant of planning permission with the owner or occupier with a view to reaching agreement on how the situation could be effectively controlled. In dealing with a small business, the aim should be to explore with the owner or operator how, if at all, the business can be enabled to continue operating acceptably on the site, perhaps by reducing the current level of activity. If formal enforcement action is unavoidable, it should not come as a surprise to a small business.

Technical Advice Note (Wales) 9, 'Enforcement of Planning Control', 1997.

TCP (Enforcement Notices and Appeals) Regulations, 1991. SI No 1991/2804

'Planning Charter Standards', DoE, Welsh Office and the National Planning Forum, 1994.

'Development Control: A Charter Guide', DoE, Welsh Office and the National Planning Forum 1993.

'Development Control - A Guide to Good Practice' Welsh Office, 1993.

Welsh Office Circular 24/97, 'Enforcing Planning Control: Legislative Provisions and Procedural Requirements'.

'Enforcing Planning Control: A Guide to Good Practice' Welsh Office. (to be published 1999)

4.14 Permitted Development Rights

4.14.1 Certain works and uses do not constitute 'development' under the terms of the 1990 Act. These include:

- works of maintenance, improvement or alteration which affect only the interior of a building or which do not materially affect its external appearance;
- the use of any buildings or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such;
- the use of land for the purpose of agriculture or forestry; and
- change of use of buildings or other land from one use to another within certain classes of the Town and Country Planning (Use Classes) Order 1987.

4.14.2 The Town and Country Planning (General Permitted Development) Order 1995 (GPDO) gives a general permission for certain defined classes of development or use of land, mainly of a minor character. The most commonly used class permits a wide range of small extensions or alterations to dwelling houses. Development requiring Environmental Impact Assessment does not benefit from permitted development rights. Schemes for Simplified Planning Zones also confer planning permission for developments of types defined in the scheme. Under the 28 day determination procedure local planning authorities may require their prior approval to be obtained before certain permitted development rights can be exercised. In National Parks and certain adjacent areas (Article 1(6) land), Areas of Outstanding Natural Beauty (AONBs), Sites of Special Scientific Interest (SSSIs) and conservation areas the GPDO provides for the reduction of some permitted development rights while others are withdrawn.

4.14.3 In operating the 28 day determination procedure under the GPDO local authorities should always have full regard to the operational needs of the agricultural and forestry industries; the need to avoid imposing any unnecessary or excessively costly requirements, and the normal considerations of reasonableness. They will also need to consider the effect of the development on the conservation of landscape, wildlife, historic sites and listed buildings and their settings.

4.14.4 In exceptional circumstances the general permission which the GPDO grants for a particular development or class of development may be withdrawn in a particular area by a direction made by the local authority or by the Secretary of State under Article 4 of that Order. Such action will rarely be justified unless there is a real and specific threat i.e. there is reliable evidence to suggest that permitted development is likely to take place which could damage an interest of acknowledged importance and which should, therefore, be brought within full planning control in the public interest. Similarly, save in exceptional circumstances, planning conditions should not be imposed which restrict or withdraw permitted development rights.

4.15 Prematurity

4.15.1 The weight to be attached to development plans which are going through the statutory procedures towards adoption, depends upon the stage of preparation (the weight will increase as successive stages are reached) and upon the degree of any conflict with existing plans. If no objections have been lodged to relevant policies in a deposited plan, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted and replace those in the existing plan. Equally, the converse applies if there have been objections to relevant policies.

4.15.2 Questions of prematurity may arise where a development plan is in preparation or under review, and proposals have been issued for consultation but the plan has not yet been adopted or approved. In these circumstances, it may be justifiable to refuse planning permission on grounds of prematurity in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would prejudice the outcome of the plan process so as to predetermine decisions about scale, location or phasing of new development which ought properly to be taken in the development plan context.

*Town and Country
Planning
(Environmental
Impact Assessment)
(England and
Wales) Regulations
1999. SI 1999/293*

*TCP(GPDO) 1995,
Sch 1 and Sch 2.*

4.15.3 However, whenever possible, planning applications should continue to be considered in the light of current policies. Where planning permission is refused on grounds of prematurity, at a time when the development plan is being prepared or reviewed, the planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the development process. Rejection would not usually be justified except in cases where a development proposal went to the heart of a plan. This requires careful judgement. A proposal for development which impacted on only a small area would rarely come into this category; but refusal might be justifiable where a proposal would have a significant impact on an important settlement, or a substantial area, with an identifiable character. The nature of objections to a proposal will also be an important consideration. The stage which a plan has reached will also be an important factor. If, for example, a plan is at the consultation stage, with no early prospect of reaching deposit, then refusal on prematurity grounds would seldom be justified because of the lengthy delay which this would impose in determining the future use of the land in question.

4.15.4 Where there is a phasing policy in the development plan there may be circumstances in which it is necessary to refuse planning permission on grounds of prematurity if the policy is to have effect.

4.16 Phasing

4.16.1 It is for individual authorities to consider the need for phasing in the light of local circumstances. Phasing may be justified by considerations relating to infrastructure or the adequacy of other services, which may indicate that a particular area cannot be released for development until a particular stage in the plan period. Evidence that market demand would exhaust total planned provision in the early years of the plan may also indicate a need for some overall phasing of development, though this generally will be justifiable only in areas which are under severe development pressure. Where phasing is included it should normally take the form of a broad indication of the timescale envisaged for the release of the main areas or identified sites, rather than an arbitrary numerical limit on permissions in particular periods.

4.16.2 Proposals for phasing should allow for a reasonable degree of choice and flexibility, for example to secure an efficient and effective housing market. Flexibility will be needed in respect of the emergence of unidentified sites. Phasing policies should recognise the need for possible adjustment to the timing of land release to the extent that the emergence of unidentified sites exceeds or falls short of the assumptions in the plan. Where assumptions are made in the plan about the future availability of windfall sites they will need to be checked by regular monitoring of planning permissions granted.

5. Conservation of the Natural and Built Environment

5.1 Countryside

5.1.1 The countryside should be protected for the sake of its landscape, natural resources and its agricultural, ecological, geological, physiographic, historical, archaeological and recreational value. Development in the countryside should benefit the rural economy and maintain or enhance the environment. Infilling or minor extensions to existing settlements may be acceptable, but new building in the open countryside away from existing settlements or areas allocated for development in development plans should be strictly controlled.

5.2 Agricultural Land

5.2.1 Land of grades 1, 2 and 3a of the Ministry of Agriculture Fisheries and Food (MAFF) Agricultural Land Classification (ALC) is the best and most versatile agricultural land, and should be protected as a national resource for the future. In development plan policies and development control decisions considerable weight should be given to protecting such land from development, because of its special importance. Land in grades 1, 2 and 3a should only be developed exceptionally, if there is an overriding need for the development, and sufficient land in lower grades is unavailable, or available lower grade land has an environmental value which is recognised by a statutory landscape, wildlife, historic or archaeological designation and this outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed, and there is a choice between sites of different grades, development should be directed to land of the lowest grade. This means that it may be necessary to use grade 3a land where there is an overriding need for development, a lack of suitable development opportunities in already developed areas, and either little land in grades below 3a or little lower grade land which does not have an environmental value recognised by statutory designation. In such cases development plans should include an appropriate policy. Little weight in agricultural terms should be given to the loss of grades 3b, 4 or 5, except in hills and uplands where agricultural practices contribute to the quality of the environment or the local economy.

5.2.2 Land quality will normally be the most important factor in considering the impact of development on agriculture. Other factors which may be relevant in deciding between sites of similar agricultural land quality, determining applications on lower quality land, and designing developments to minimise impact on local agriculture include:

- * location of development in relation to farms;
- * farm size and structure;
- * farm buildings and other fixed equipment;
- * land drainage;
- * irrigation.

5.3 Landscape and Nature Conservation

5.3.1 The Government, which has signed and ratified the Convention on Biological Diversity, is committed to conserving and, where possible, enhancing biodiversity. The Government's policy is to protect the nature conservation interest of statutorily designated sites and to sustain or enhance the biodiversity in the wider countryside.

5.3.2 Landscape and nature conservation issues are not confined by administrative boundaries, and should be addressed strategically through consultation and collaboration with adjoining planning authorities.

5.3.3 The Countryside Council for Wales (CCW) has a statutory role in development control and will provide specific advice on landscape and nature conservation issues for development plan preparation. Voluntary conservation organisations can also provide valuable advice.

*Agricultural Land
Classification of
England and
Wales, MAFF
1988*

*Biodiversity: The
UK Action Plan,
HMSO, 1994.*

*Biodiversity: The
UK Steering
Group Report,
HMSO, 1995.*

*'Government
Response to the
UK Steering
Group Report on
Biodiversity', Cm
3260, HMSO,
1996*

Reference

5.3.4 In areas statutorily designated for their landscape quality, account should be taken, both in plan policies and in determining applications and appeals, of the objectives and purposes of designation and the features and qualities that led to designation.

*National Parks and
Access to the
Countryside Act
1949.*

*Countryside Act
1968.*

5.3.5 The quality of the countryside outside statutorily designated areas should be maintained or, where possible, enhanced while allowing for appropriate development to be accommodated. Local countryside designations, carry less weight than national designations and development plans should not apply the same policies to them. Such designations may unduly restrict acceptable development and economic activity without identifying the particular features of the local countryside which need to be respected or enhanced. Local planning authorities should only maintain or extend local countryside designations where there is good reason to believe that normal planning policies cannot provide the necessary protection. They should state in their development plans what it is that requires extra protection and why. When they review their development plans, they should rigorously consider the function and justification of existing local countryside designations. They should ensure that they are soundly based on a formal assessment of the qualities of the countryside. Where these have been satisfied and a landscape assessment has identified certain components of the local landscape or a local biodiversity action plan or countryside strategy has identified certain habitats which need to be respected or enhanced, local planning authorities should consider including appropriate policies in their development plans.

5.3.6 The Government regards National Park designation as conferring the highest status of protection as far as landscape and scenic beauty are concerned. The statutory purposes of National Parks are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for public understanding and enjoyment of their special qualities. Where it appears that there is a conflict between those purposes, greater weight shall be given to the first. National Park Authorities, other public bodies and other relevant authorities have a statutory duty to have regard to National Park purposes. National Park Authorities also have a statutory duty, in pursuing their primary purposes, to seek to foster the economic and social well being of their local communities. In National Parks, planning policies and development control decisions should give great weight to conserving and enhancing the natural beauty, wildlife and cultural heritage of these important areas.

*Welsh Office
Circular 13/99
'National Parks in
Wales'.*

*Environment Act
1995 S.61, S.62*

5.3.7 The primary objective of designation of Areas of Outstanding Natural Beauty (AONBs) is the conservation and enhancement of their natural beauty. Planning policies and development control decisions affecting AONBs should generally favour conservation of natural beauty, although it will also be appropriate to have regard to the economic and social well-being of the areas.

*National Parks and
Access to the
Countryside Act
1949 S.87(1)*

5.3.8 Major developments should not take place in National Parks save in exceptional circumstances of proven national interest. In AONBs, major industrial or commercial development should not be allowed; only proven national interest or lack of alternative sites can justify an exception. Applications for all such developments must be subject to the most rigorous examination. Consideration of applications for major developments should therefore include an assessment of:

*Environment Act
1995, Part III*

- i. the need for the development, in terms of national considerations, and the impact of permitting it or refusing it upon the local economy;
- ii. the cost of and scope for developing elsewhere outside the area or meeting the need for it in some other way;
- iii. any detrimental effect on the environment and the landscape, and the extent to which that could be moderated.

Any construction or restoration should be carried out to high environmental standards.

Reference

5.3.9 In National Parks environmental impact assessment may be required for a greater proportion of Schedule 2 proposals than in the wider countryside.

Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

5.3.10 Designation as an Environmentally Sensitive Area or Heritage Coast does not directly affect the status of the area in planning terms. However, the features which contributed to the designation of such areas may be important in planning policies or development control decisions.

5.3.11 The Government's objectives for nature conservation are to ensure that its policies contribute to the conservation of the abundance and diversity of British wildlife and its habitats, or minimise the adverse effects on wildlife where conflict of interest is unavoidable, and to meet its international responsibilities and obligations for nature conservation. The Government, local authorities and all public agencies concerned with the use of land and natural resources must make adequate provision for development and economic growth whilst ensuring effective conservation of the natural environment in line with the principles of sustainable development.

'Biodiversity The UK Action Plan', Cm 2428, HMSO, 1994.

Technical Advice Note (Wales) 5, 'Nature Conservation and Planning', 1996.

5.3.12 The Secretary of State wishes to ensure that international obligations are fully met, and that, as far as possible and consistent with the objectives of the designation, statutorily designated sites are protected from damage and destruction, with their important scientific features conserved by appropriate management.

EC Directive on Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive) (1992/43/EEC).

EC Directive on the Conservation of Wild Birds (79/409/EEC).

5.3.13 Both statutorily designated sites and other designated sites are important for the conservation of the natural heritage, as are some non-designated areas and features which provide wildlife corridors. Land use planning should take account of the objectives and purpose of nature conservation designations and the wildlife or scientific features and qualities that led to the designation. Local planning authorities should have regard to the relative significance of international, national and local designations in considering the weight to be attached to nature conservation interests. They should only apply local designations to sites of substantive nature conservation value, and take care to avoid unnecessary constraints on development.

Convention on Wetlands of International Importance especially as a Waterfowl Habitat, Ramsar, 1971 (as amended 1987).

5.3.14 The Secretary of State, on the advice of CCW, will normally call in for his own determination planning applications which are likely significantly to affect sites of international importance or which have a significant effect on National Nature Reserves or on Nature Conservation Review or Geological Conservation Review sites. He will also normally call in other applications affecting SSSIs if they raise planning issues of more than local importance.

5.3.15 Development plans and development control decisions should ensure that relevant international, national and local conservation interests are properly provided for; they should also be concerned with other land of conservation value, including wildlife sites in urban areas and the possible provision of new habitats. Development plans must include policies in respect of the conservation of the natural beauty and amenity of the land. Under the Habitats Regulations such policies shall include encouraging the management of landscape features which are of major importance for wild flora and fauna, being essential for migration, dispersal and genetic exchange of wild species. Suitable planning conditions and obligations may serve to promote such management.

Habitats Directive Article 10.

Conservation (Natural Habitats &c) Regulations 1994. SI No 1994/2716, Reg 37.

5.3.16 Sites statutorily designated for their nature conservation importance, Sites of Special Scientific Interest (SSSIs), National Nature Reserves (NNRs), Special Protection Areas (SPAs), Special Areas of Conservation (SACs), Ramsar sites and potential SPAs candidate SACs, and listed Ramsar sites (i.e. not yet designated) should be identified in plans. Development plans policies and development control decisions applied to these sites should reflect their relative significance, placing particular emphasis on the protection of internationally important sites. Principles and targets taken from locally prepared Agenda 21, biodiversity action plans and countryside strategies, can inform development plan preparation.

National Parks and Access to the Countryside Act 1949.

Wildlife & Countryside Act 1981.

5.3.17 For the purpose of considering development proposals affecting them, potential SPAs and candidate SACs (included in the list sent to the European Commission) should be treated in the same way as classified SPAs and designated SACs. Sites which the Government and the European Commission have agreed as Sites of Community Importance which are to be designated as SACs attract the same legal protection as if they had already been designated. As a matter of policy, the Government has chosen to apply the same considerations to listed Ramsar sites.

5.3.18 Nature conservation can be a significant material consideration in determining many planning applications, especially in or near SSSIs. Protected sites can be seriously damaged by developments within or adjacent to their boundaries, and in some cases, by development some distance away. Local planning authorities must consult CCW before granting permission for the development of land within an SSSI, in any consultation area which has been defined by the CCW around an SSSI, or for any development which is likely to affect an SSSI.

TCP (GDPO), 1995, SI No 1995/419.

5.3.19 Consideration should be given to the need for Environmental Impact Assessment where a development listed in Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 is likely to have a significant effect on the special character of an SSSI. However, in practice, the effect of a Schedule 2 development on an SSSI will often be such as to require EIA. Whilst each case should be judged on its merits EIA would normally be required where a Ramsar site or listed Ramsar site, a potential or classified SPA or a candidate, agreed or designated SAC could be affected. Local planning authorities should consult CCW if uncertain about the significance of a project's likely effect on the environment.

5.3.20 The presence of a protected species is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in harm to the species or its habitat. Local planning authorities should consult CCW before granting permission and should also advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site concerned.

Wildlife and Countryside Act 1981.

Protection of Badgers Act 1992.

Habitats Regulations 1994.

5.3.21 Local planning authorities should not refuse permission if development can be subject to conditions that will prevent damaging impacts on wildlife habitats or important physical features, or if other material factors are sufficient to override nature conservation considerations.

5.4 Historic Environment

5.4.1 The historic environment which encompasses ancient monuments, listed buildings, conservation areas and historic parks, gardens and landscapes, should be protected and local authorities should maintain and strengthen their crucial role in securing its conservation. The protection and enhancement of the environment is a key aspect of local authorities' wider historic environmental responsibilities, and should be taken into account both in the formulation of authorities' planning policies and in their exercise of development control functions. Facilities to enhance and increase the public enjoyment of the historic environment should be encouraged, provided that these do not conflict with the conservation of the historic environment.

Ancient Monuments and Archaeological Areas Act 1979.

Planning (Listed Buildings and Conservation Areas) Act 1990.

Reference

5.4.2 Development plans should set out policies for the preservation and enhancement of the historic environment in their area and the factors which will be taken into account in assessing planning applications. Plans should also set out proposals for re-use or new development affecting historic areas and buildings, which may assist in the regeneration of rundown areas. Plans should set out broad criteria for the designation of new conservation areas, for the review of existing conservation area boundaries and for controlling the demolition, alteration or extension of listed buildings. They should show how detailed assessment documents and statements of proposals for individual conservation areas relate to the plan, and what weight will be given to them in decisions on applications for planning permission and conservation area consent.

Planning (Listed Buildings and Conservation Areas) Regulations 1990. SI No 1990/1519.

Welsh Office Circular 61/96, 'Planning and the Historic Environment: Historic Buildings and Conservation Areas'.

Welsh Office Circular 1/98 'Planning and the Historic Environment: Directions by the Secretary of State for Wales'

5.5 Listed Buildings

5.5.1 There is no statutory requirement to have regard to the provisions of the development plan when considering listed building consent, (as Section 54A does not apply). However, development plans should include conservation policies that are relevant to development control decisions. Plans should also include policies for works of demolition or alteration which, while not in themselves constituting development, could affect an authority's decision on a related application for planning permission.

5.5.2 The Secretary of State has a duty to compile lists of buildings of special architectural or historic interest. When considering applications for planning permission for development which affects a listed building or its setting, authorities are required to have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses.

5.5.3 The continuation or reinstatement of the original use should generally be the first option when the future of a listed building is considered. However, not all original uses will now be viable or necessarily appropriate. Policies for development and listed building controls should recognise the need for flexibility where new uses have to be considered to secure a building's survival. The aim should be to identify the optimum viable use that is compatible with the fabric, interior and setting of the historic building.

5.5.4 Once a building is listed (or is the subject of a building preservation notice), consent is normally required for its demolition and for any works of alteration or extension which would affect its character as a building of special architectural or historic interest. Controls apply to all works, both external and internal, that would affect a building's special interest. There should be a general presumption in favour of the preservation of listed buildings. Applicants for listed building consent must be able to justify their proposals and show why alteration or demolition of a listed building is desirable or necessary.

1990 Act, Section 7.

5.5.5 While it is an objective of Government policy to secure the preservation of historic buildings, there will very occasionally be cases where demolition is unavoidable. Listed building controls ensure that proposals for demolition are fully scrutinised before any decision is reached. The demolition of any grade I or grade II* listed building should be wholly exceptional and should require the strongest justification. The Secretary of State would not expect consent to be given for total or substantial demolition of any listed building without convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses, and these efforts have failed; that preservation in some form of charitable or community ownership is not possible or suitable; or that redevelopment would produce substantial

1990 Act, Section 13.

benefits for the community which would decisively outweigh the loss resulting from demolition. Local planning authorities must, unless directed otherwise, notify the Secretary of State before listed building consent is granted. The Royal Commission on the Ancient and Historical Monuments of Wales is allowed access to buildings which it wishes to record before demolition takes place.

5.5.6 Directions under Article 4 bringing certain categories of permitted development within planning control can be made by local authorities without the need for approval by the Secretary of State if they relate solely to a listed building or to development within the curtilage of a listed building, provided they do not affect the carrying out of development by a statutory undertaker.

*TCP (GPDO)
1995, Article 4.*

5.6 Conservation Areas

5.6.1 Local planning authorities must designate as a conservation area any 'area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance'. Authorities should advise Cadw: Welsh Historic Monuments, Executive Agency when conservation areas are designated. Conservation area designation introduces a general control over the demolition of unlisted buildings and is the main instrument available to authorities to give effect to conservation policies for a particular neighbourhood or area.

*1990 Act, Section
69, Section 70(5).*

5.6.2 Local planning authorities are required to formulate and publish proposals for the preservation and enhancement of conservation areas. Policies will normally be needed which clearly identify what it is about the character or appearance of the area which should be preserved or enhanced, and set out the means by which that objective is to be pursued. Development plans should integrate conservation policies with wider policies for the area, though a local planning authority's detailed statement of proposals for the conservation area should not itself be part of the development plan.

*1990 Act,
Section 71.*

5.6.3 In the exercise of their planning functions, in a conservation area, local authorities must pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In the Secretary of State's view this should also be a material consideration in the planning authority's handling of development proposals which are outside the conservation area but would affect its setting.

5.6.4 Plan policies should make it clear that development proposals will be judged for their effect on the character and appearance of the conservation area. While consideration of the character or appearance of conservation areas must be a major consideration, this cannot take the form of preventing all new development. Policies will need to be designed to allow the area to remain alive and prosperous, and to avoid unnecessarily detailed controls over businesses and householders, but at the same time to ensure that any new development accords with the area's special architectural and historic interest.

5.6.5 If any proposed development would conflict with the objective of preserving or enhancing the character or appearance of a conservation area, there will be a strong presumption against the grant of planning permission. In exceptional cases the presumption may be overridden in favour of development which is desirable on the ground of some other public interest. The Courts have held that the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.

5.6.6 Conservation area designation introduces control over the demolition of most buildings within conservation areas. Procedures for conservation area consent are essentially the same as for listed building consent. In exercising controls, account should be taken of the part played in the architectural or historic interest of the area by the building for which demolition is proposed, and in particular of the wider effects of demolition on the building's surroundings and on the conservation area as a whole. The general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area.

*1990 Act
Sections 74 & 75*

5.6.7 The GPDO requires planning applications for certain types of development in conservation areas which are elsewhere classified as permitted development. Local

planning authorities can also restrict specific permitted development rights in relation to dwelling houses in conservation areas, where the permitted development would front a highway, waterway or open space. The Secretary of State's approval is not required, but authorities must notify residents and take account of local views before confirming the Article 4(2) direction. The withdrawal of permitted development rights outside these specified categories continues to require Article 4(1) directions for which the Secretary of State's approval is normally needed before they can become effective.

5.6.8 The Secretary of State will generally be in favour of approving directions in conservation areas where these are backed by a clear assessment of an area's special architectural and historic interest, where the importance to that special interest of the features in question is established, where a local planning authority can demonstrate local support for the direction, and where the direction involves the minimum withdrawal of permitted development rights necessary to achieve its objective.

5.6.9 The designation of a conservation area does not in itself automatically justify making an Article 4 direction. Such directions may, however, have a role to play if they would help to protect features that are key elements of particular conservation areas.

5.6.10 No additional statutory controls follow from the inclusion of a site on the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. The Register is being prepared in two parts. Local planning authorities should protect registered parks and gardens and take the first part of the Register, covering parks and gardens, into account in preparing development plans and in determining planning applications. Once this part is complete, arrangements for statutory consultation on planning applications affecting parks and gardens on the Register will be introduced. In the meantime, voluntary arrangements exist where sections of the Register have already been published. Information on the landscapes on the second part of the Register should also be taken into account by local planning authorities in preparing development plans, and in considering the implications of developments which are of such a scale that they would have a more than local impact on an area on the Register.

'Register of Landscapes, Parks & Gardens of Special Historic Interest in Wales', (parts 1 and 2.2 in preparation; part 2.1 published as Register of Landscapes of Outstanding Historic Interest in Wales (1998)

Welsh Office Circular 29/95 'General Development Order Consolidation 1995'

Welsh Office Circular 61/96

5.6.11 No additional statutory controls follow from the inclusion of a site in the World Heritage List although the inclusion of a site highlights the outstanding international importance of the site as a key material consideration to be taken into account by local planning authorities in determining planning applications and listed building consent applications, and by the Secretary of State in determining cases on appeal and following call in.

5.6.12 It is generally preferable for both the applicant and the planning authority if related applications for planning permission and for listed building or conservation area consent are considered concurrently.

5.7 Archaeology

5.7.1 The desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application whether that monument is scheduled or unscheduled. Where nationally important archaeological remains, whether scheduled or not, and their settings are affected by proposed development, there should be a presumption in favour of their physical preservation. Cases involving lesser archaeological remains will not always be as clear cut and planning authorities will need to weigh the relative importance of archaeology against other factors including the need for the proposed development.

Ancient Monuments and Archaeological Areas Act 1979.

Welsh Office Circular 60/96, 'Planning and the Historic Environment: Archaeology'.

5.7.2 Archaeological remains identified and scheduled as being of national importance should normally be earmarked in development plans for preservation. Authorities should bear in mind that not all nationally important remains meriting preservation will necessarily be scheduled; such remains and, in appropriate circumstances, other unscheduled archaeological remains of more than local importance, may also be identified in development plans as particularly worthy of preservation.

5.7.3 The needs of archaeology and development can be reconciled, and potential conflict very much reduced, if developers discuss their preliminary plans for development with the planning authority at an early stage. In certain circumstances, this may involve the developer in commissioning an archaeological assessment (sometimes as part of a wider Environmental Impact Assessment) before submitting a planning application. If important remains are thought to exist at the development site, it is reasonable for the planning authority to request the prospective developer to arrange for an archaeological field evaluation to be carried out before any decision on the planning application is taken.

5.7.4 Planning authorities should not include in their development plans policies requiring developers to finance archaeological works in return for the grant of planning permission. By the same token, developers should not expect to obtain planning permission for archaeologically damaging development merely because they arrange for the recording of sites whose physical preservation in situ is both desirable (because of their level of importance) and feasible.

5.7.5 Where planning authorities decide that physical preservation in situ of archaeological remains is not justified in the circumstances of the case and that development resulting in the destruction of the archaeological remains should proceed, it would be entirely reasonable for the planning authority to satisfy itself, before granting planning permission, that the developer has made appropriate and satisfactory provision for the archaeological investigation and subsequent recording of the remains and the publication of the results of that work.

5.7.6 In cases when planning authorities have decided that planning permission may be granted but wish to secure the provision of appropriate archaeological investigation and subsequent recording of the remains, it is open to them to do so by use of a negative condition, i.e. a condition prohibiting the carrying out of the development until such time as works or other action, for example, an excavation, have been carried out by a third party.

5.7.7 Scheduled ancient monuments are exempt from conservation area control; Scheduled Monument Consent for proposed works to a scheduled ancient monument must be sought from the Secretary of State. Planning permission alone is not sufficient to authorise the works.

*Ancient Monuments
and Archaeological
Areas Act 1979*

*Ancient Monuments
(Class Consents)
Order 1994. SI
No1994/1381.*

6. The Coast

6.1 Local planning authorities will need to define the coastal zone for their area. Coastal zones may include areas where conservation of the natural and historic environment requires development to be limited and where visual intrusion will need to be carefully considered.

6.2 Development plans should normally only propose coastal locations for development which needs to be on the coast. In particular, the undeveloped coast will rarely be the most appropriate location for development. The developed coast, by contrast, may provide opportunities for restructuring and regenerating existing urban areas. Where new development requires a coastal location, the developed coast will normally provide the best option, provided that due regard is paid to the risks of erosion, flooding or land instability.

6.3 Policies should aim to protect and enhance the character and landscape of the undeveloped coastline. Planning policies to be pursued in Heritage Coast areas should be incorporated in development plans. For estuaries and parts of the open coast, local

*Technical Advice
Note (Wales) 14,
'Coastal Planning',
1998.*

planning authorities and other agencies and interest groups may cooperate to prepare estuary or coastal management plans. These should complement and be consistent with development plans.

6.4 Before major developments are permitted it will be essential to demonstrate that a coastal location is required. Proposed developments of national or regional importance that require a coastal location will normally be included in the development plan.

6.5 New coastal development should not generally be permitted in areas which would need expensive engineering works, either to protect developments on land subject to erosion by the sea or to defend land which might be inundated by the sea. There is also the need to consider the possibility of such works causing a transfer of risks to other areas.

6.6 In considering applications for planning permission for new coastal defence works, all potential environmental effects, both on and off-shore, must be taken into account. In low lying, undeveloped coastal areas, options for coastal defence may include a policy of managed set back.

'Strategy for Flood and Coastal Defence in England and Wales', MAFF, Welsh Office, 1993.

7. Green Belts

7.1.1 There are currently no Green Belts in Wales although there are areas in Wales where Green Belts may be an effective means of preventing urban sprawl and keeping land open permanently. The Government encourages local planning authorities in the more heavily populated parts of Wales which are subject to very significant pressures for development to seriously consider the need for Green Belts.

7.1.2 The most important attribute of Green Belts is their openness: to maintain this openness development within a Green Belt must be strictly controlled. The general policies controlling development in the countryside apply in a Green Belt but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation (see paragraph 7.2).

7.1.3 Green Belts should be established through development plans, which must justify the need for such areas, demonstrate why normal planning and development control policies, including green barrier/green wedge policies would not be adequate and include policies for the strict control of development within Green Belts. The designation of a Green Belt is likely to affect more than one local authority and consultation will be necessary with all authorities likely to be affected.

7.1.4 The purpose a Green Belt is to:

- prevent the coalescence of large towns and cities with other settlements;
- manage urban form through controlled expansion of urban areas;
- assist in safeguarding the countryside from encroachment;
- protect the setting of an urban area;
- assist in urban regeneration by encouraging the recycling of derelict and other urban land.

7.1.5 Land in Green Belts can fulfil the following objectives:

- provide opportunities for access to the open countryside;
- provide opportunities for outdoor sport and outdoor recreation;
- maintain landscape/wildlife interest;
- retain land for agriculture, forestry, and related purposes;
- improve derelict land.

7.1.6 The extent to which the use of land fulfils these objectives is however not a material factor in determining whether land should be included within a Green Belt.

7.1.7 The essential characteristic of Green Belts is their permanence and their boundaries should be chosen carefully using physical features and boundaries to include only that land which it is necessary to keep open in the longer term. Boundaries should be altered only in exceptional circumstances and land within a Green Belt should be protected for a longer period than the current development plan period.

7.1.8 When considering Green Belt designation local planning authorities will need to ensure that a sufficient range of development land is available which is suitably located in relation to the existing urban edge and the proposed Green Belt, bearing in mind the longer term need for development land, the effects of development pressures in areas beyond the Green Belt and the need to minimise the requirement for travel. This may require land to be safeguarded, and boundaries of a proposed Green Belt must be carefully defined to achieve this. Green Belts will not necessarily need to extend in a continuous band around an urban area.

7.1.9 Settlements and other developed sites within a Green Belt should only be included as part of the Green Belt if no new building or infilling only is proposed. Policies should list and define the boundaries of settlements where infilling would be permitted. Settlements and other sites where limited expansion is proposed should be excluded from the Green Belt and policies for those settlements should be included in the development plan.

7.2 Inappropriate Development in Green Belts

7.2.1 The construction of new buildings in a Green Belt is inappropriate development unless it is for the following purposes:

- agriculture and forestry;
- essential facilities for outdoor sport and outdoor recreation, cemeteries, and other uses of land which maintain the openness of the Green Belt and which do not conflict with the purpose of including land within it;
- limited extension, alteration or replacement of existing dwellings; or
- limited infilling (in these settlements and other development sites which have been identified for limited infilling in the development plan) and affordable housing for local needs under development plan policies.

7.2.2 The re-use of buildings in a Green Belt is not inappropriate development provided:

- the original building is substantial, permanent and capable of conversion without major reconstruction;
- the new use will not have a greater impact on the openness of the Green Belt and the purposes of including land within it (strict control will need to be exercised over the extension, alteration or any associated use of land for re-used buildings); and
- the building is in keeping with its surroundings.

Other forms of development would be inappropriate development unless they maintain the openness of the Green Belt and do not conflict with the purposes of including land within it.

7.2.3 Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would have on the Green Belt. Green Belt policies in development plans should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan.

8. Transport and Infrastructure

8.1 Transport

8.1.1 The Government aims to extend choice in transport and secure mobility in a way which supports sustainable development by encouraging the development of an integrated transport system which is safe, efficient, clean and fair. This will be achieved and the environment protected by:

- reducing the level of road traffic, or reducing the rate of growth;
- encouraging alternative means of travel and transport which have less environmental impact, eg public transport, cycling and walking;
- reducing reliance on the motor car;
- seeking to ensure the more effective use of the transport network and targeting resources to best effect.

The Government recognises that the capacity of the road network cannot meet, in full, forecast levels of traffic growth, especially in urban areas. New road building or the upgrading of existing highways will be environmentally unacceptable in some cases. It is Government policy that facilitating commuting by car into congested centres should not be the only reason for building new trunk roads or local roads.

8.1.2 Development plans should contain an explanation of the overall aims of the authority's transport policies and the way in which those transport policies support the other policy aims of the plan. Plans should provide the means for:

- examining the relationship between transport and land use planning;
- promoting the integration and co-ordination of transport and land use planning;
- promoting strategies to reduce the need to travel.

Plan policies need to reflect the differences between the characteristics of urban and rural areas including the scale of development and the availability of public transport. The Government's proposals to introduce local transport plans will provide a further means to assist in achieving development plan strategies and policies for transport.

8.1.3 Each local authority in Wales is required under the Road Traffic Reduction Act 1997 to produce a report containing an assessment of the traffic on the roads for which it is the local highway authority and a forecast of expected growth in those levels. The report should also contain for all or part of the local authority area targets for reducing levels of local road traffic or the rate of growth on those levels. Development plan policies should be consistent with the approach adopted to fulfilling these obligations.

8.1.4 Developments at ports and airports may provide improved facilities and bring economic benefits, but may also give rise to environmental and other concerns. Local planning authorities will need to take these fully into account when preparing plan policies. The increasing economic role of Cardiff International Airport and of local airports will need to be considered in appropriate development plans.

8.1.5 Plans should specify the primary route network, including trunk roads and separately identify the core network. Plans should also include policies and proposals relating to the development of transport infrastructure and related services (eg public transport interchange facilities, rail facilities, harbours and airports including safeguarding zones).

'Transporting Wales into the Future, Welsh Transport Policy Statement', Welsh Office, 1998.

Technical Advice Note (Wales) 18, 'Transport'.

Road Traffic Reduction Act 1997

Road Traffic Reduction (UK Targets) Act 1998

'A New Deal for Transport: Better for Everyone': Cm 3950 DETR, Welsh Office, Scottish Office and DENI, 1998.

Road Traffic Reduction Act 1997: Draft Guidance to Welsh Local Authorities, 1998.

'Driving Wales Forward' A Strategic Review of the Welsh Trunk Roads Programme. Welsh Office 1998

8.1.6 Development plan policies should set out firm proposals for any major improvements to the transport network by both the Secretary of State and local authorities on which work is expected to commence within the plan period. Where local planning authorities wish to safeguard land for road, heavy or light rail, and bus, or cycleway schemes, they should do so through a proposal in the development plan.

8.1.7 The impact of policies and development on pedestrians and cyclists should be considered. Development plans should encourage the implementation of specific measures to assist pedestrians and cyclists, including the provision of safe and convenient routes between facilities, and parking facilities for cyclists.

8.1.8 Policies should address the need for safety in transport systems and parking facilities (including parking for orange badge holders) and of the need for traffic calming and other measures to make areas safer for cyclists and pedestrians. In particular consideration should be given to the needs of less mobile people.

8.1.9 Great care must be taken to minimise the impact of transport infrastructure projects, or improvements to existing infrastructure, on the natural, historic and built environment. Routes should make the best use of existing land forms and other landscape features to reduce noise and visual effects, subject to safety and other environmental considerations. Where no other alternative routes or options are practicable transport schemes should provide mitigation measures which minimise the impacts caused by the construction and operation of transport infrastructure.

*Technical Advice
Note (Wales) 4,
'Retailing and Town
Centres', 1996.*

*Technical Advice
Note (Wales) 11,
'Noise', 1997.*

8.2 Public Transport

8.2.1 Local authorities should promote alternatives to the private car to contribute to environmental goals and assist in relieving congestion. These might include improved facilities for railway and bus passengers; park and ride schemes with secure parking; and measures to encourage better services. Local authorities may wish to explore the potential for re-opening rail lines or the provision of new stations and enhanced passenger services on existing lines.

8.2.2 The likely availability and use of public transport is an important ingredient in determining locational policies designed to reduce the need to travel by car. Preparing accessibility profiles for public transport may assist local authorities in assessing possible development sites. The layout of new development should facilitate public transport services and links. Rail services with their fixed infrastructure can provide the greatest certainty for developers and can provide a focus for regeneration and new development. Bus services, especially in urban areas can also provide certainty for developers particularly where supporting facilities and priority schemes, such as bus lanes, are provided.

*'PPG13 A Guide to
Better Practice:
Reducing the Need
to travel through
land use and
transport planning',
DoE/DoT, HMSO,
1995*

8.2.3 Local authority support for bus services, passenger rail services or proposals for associated facilities should be consistent with locational policies in development plans. Where additional public transport or road provision would be required to allow development to proceed the local planning authority should include an appropriate policy in the development plan. Where development can only take place with improvements to public transport services, local authorities should consider the use of planning conditions and/or planning obligations.

8.3 Siting of Development

8.3.1 Development plans should assess the impact on trunk roads and the wider road network of their proposed provision for new development, and the extent to which it is consistent with minimising the need to travel and reducing reliance on the car. Local authorities should aim, as far as practical, to balance employment and population in order to enable people to live near work.

8.3.2 Local authorities should adopt policies to locate major generators of travel demand in existing centres or other locations which are highly accessible by public transport, cycling and walking. Proposed development sites for housing, employment, retailing, leisure and recreation, and community facilities such as libraries, schools and hospitals should be within existing urban areas or in other locations which are or can be well served by public transport, or can be reached by walking or cycling. Through their

development plans authorities should encourage higher density residential development near public transport centres, or near corridors well served by public transport (or with the potential to be so served).

8.3.3 Where possible, employment and distribution sites should be conveniently located for access to rail sidings, wharves or harbours to encourage freight movement by rail or water rather than road. Where such facilities are currently unused or under used they should, where practical, be safeguarded for possible future use for transport purposes. Local planning authorities should ensure that disused transport routes are not severed by new development if there is a realistic prospect of their use for transport purposes in the future. Wherever possible provision should be made for the interim use of disused canal or rail alignments as open space corridors.

8.3.4 Local authorities should consider which routes are most suitable for use by road freight and encourage the location or relocation of distribution and operating centres and other developments generating frequent road freight movements on sites with access to those routes. However, direct access onto primary routes from new development should be avoided where possible. Where feasible, access should be on to a secondary route. At any location, traffic flow and safety can be assisted by good junction design. Large scale development proposals may merit special traffic measures and road works to cater for them in the existing network. Direct access to a motorway or motorway slip road would not be acceptable other than to a motorway service area approved by the Welsh Office.

8.3.5 With regard to distribution centres, and retail and warehouse parks local authorities may seek to reach agreement on the provision of ancillary freight services, including new freight operating centres and rest areas, as part of the development.

8.4 Parking

8.4.1 The provision of car parking is a major influence on the choice of means of transport and the pattern of development. Policies in Unitary Development Plans for car parking should therefore support the overall transport and locational policies of the plan, which should themselves reflect a sustainable approach to development. Local planning and highway authorities should also ensure that their parking standards and requirements are prepared and kept under review to contribute to achieving their transport and locational policies. Neighbouring authorities should co-operate on developing a parking strategy to achieve a consistent approach.

8.5 Development Control

8.5.1 When determining planning applications for development which has transport implications, local planning authorities should take into account:

- the impacts on travel demand of the proposed development;
- the level and nature of public transport provision;
- accessibility by a choice of means of travel;
- the willingness of a developer to provide infrastructure or measures to manage traffic or promote travel by public transport, walking or cycling, to overcome objections to a proposed development. (This may not justify the grant of permission if there are other material considerations, such as the authority's aim of reducing the need to travel).

8.5.2 The access to a development should reflect the likely road usage involved and due attention must be paid to the consequences of allowing development which may be likely to either increase road accidents or create traffic congestion. The extra traffic which may be generated by a proposed development may precipitate the need for road or public transport improvements in the vicinity of the scheme, and beyond. Where transport improvements will be needed to enable the proposal to go ahead, these should normally be provided first.

*Technical Advice
Note (Wales) 18
'Transport' 1998*

*Technical Advice
Note (Wales) 18
'Transport' 1998*

8.6 Strategic Roads

8.6.1 The Secretary of State wishes to see closer links between trunk road and land use planning as part of the development of an integrated transport policy for Wales. The strategic review of the Welsh trunk road programme considered the role of the trunk road network within an integrated transport policy, and identified a new core network of key strategic east-west and north-south routes.

8.7 Utilities

8.7.1 The capacity of existing infrastructure including services such as education and health facilities, roads, water supply and sewers, electricity, gas and telecommunications and the need for additional facilities should be taken into account in the preparation of development plans and the consideration of planning applications. In preparing plans, authorities should consider both the siting requirements of the utilities to enable them to meet the demands that will be placed upon them, and the environmental effects of such additional uses. Development may need to be phased to allow time to ensure that the provision of utilities can be managed in a way consistent with general policies for the environment.

8.8 Telecommunications

8.8.1 The Government's telecommunications policy seeks to ensure that people have a greater choice of provider and range of telecommunications services. The policy aims to facilitate the growth of new and existing telecommunications systems and the provision of sites for such installations, whilst taking full account of the effect upon the environmental amenity of neighbouring areas. When considering telecommunications development proposals, local planning authorities should take account of the limitations imposed by the nature of the network and the technology. Over time the development of telecommunications systems may contribute towards a reduction in the need to travel.

8.8.2 Authorities should not question the need for the service which a proposed development is to provide, nor seek to prevent competition between different operators.

8.8.3 Plans should set out policies and proposals for the location of telecommunications development, allocating sites for major developments and including criteria-based policies to guide telecommunications developments where sites other than those identified in the plan may be proposed.

8.8.4 Criteria should be sufficiently flexible to accommodate technological change and may be concerned with the siting and appearance of apparatus, including location and landscaping requirements designed to minimise the impact on amenity consistent with operational requirements.

8.8.5 In any development significant and irremediable radio interference with other electrical equipment of any kind can be a material planning consideration.

8.8.6 The installation of many telecommunications systems is covered by permitted development rights, which may be subject to the local authority's prior approval of details of siting and appearance. Where listed building consent is concerned, all telecommunications development is subject to normal statutory procedures. Where approval of details or planning permission is required the following should, in particular, be taken into account for telecommunications related planning applications:

- the extent to which radio and telecommunications masts can be shared. The Government attaches considerable importance to keeping to a minimum the number of masts, and the sites for such installations where practicable. The sharing of masts will help to achieve this, as will the use of existing buildings to site new antennas;
- that dishes blend with their backgrounds. Siting should, so far as practicable, minimise the impact on amenity and the external appearance of the building.

8.8.7 Planning permission or approval of details should not be refused on the basis of policies which take insufficient account of the growth and characteristics of modern telecommunications.

*Technical Advice
Note (Wales) 19
'Telecommunications'
1998*

*Telecommunications
Prior Approval
Procedures as
Applied to Mast/
Tower
Development Code
of Best Practice',
DoE/WO 1998*

9. Housing

9.1 Housing Land

9.1.1 Local planning authorities should ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan. This means that sites must be free, or readily freed, from planning, physical and ownership constraints, and capable of being developed economically, in areas where people want to live, and that there must be sites suitable for the full range of housing types. Although much of this provision is likely to meet local needs, land allocated in development plans as housing land should be available to all applicants. For land to be regarded as genuinely available it must be a Joint Housing Land Availability Study site. The Welsh Office will monitor development plans and their implementation to ensure that sufficient housing land is brought forward for development in each unitary authority and that economic development and related job opportunities are not unreasonably constrained.

9.1.2 The Government wishes local planning authorities to address the scope and potential for rehabilitation, conversion, clearance and redevelopment when considering suitable sites for housing development. Maximising the use of appropriate vacant land within urban areas for housing development can assist regeneration in those areas, and at the same time relieve pressure for development in the countryside. In particular, local authorities should take account of the contribution reclaimable or reclaimed urban land and disused or underused buildings can make to the overall provision of land for housing.

9.1.3 Plans should indicate the scale of provision to be made in terms of net additions to the total housing stock explaining how figures are derived and the assumptions that underlie them, and setting out allowances made for conversions and change of use, new buildings, small sites and windfall sites, and losses from demolition.

9.1.4 Wherever possible suitable housing sites should, be identified in the development plan together with clear policy criteria against which applications for development of unallocated sites will be considered. New housing developments should be well integrated with the existing pattern of settlements; the expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern. Sensitive infilling of small gaps within small groups of houses, or minor extensions to groups may be acceptable, though much would depend on the character of the surroundings and the number of such groups in the area. Where housing development is on a significant scale, or where a new settlement or urban village is proposed, it should be integrated with existing or new industrial, commercial and retail development and with community facilities. However, residential development in the vicinity of existing industrial uses should be restricted if the presence of houses is likely to lead residents to try to curtail the industrial use. Significant incremental expansion of housing in villages and small towns should be avoided where this is likely to result in unacceptable expansion of travel demand to urban centres and where the travel needs are unlikely to be well served by public transport.

9.1.5 In established areas insensitive infilling or the cumulative effects of development or redevelopment, including conversion and adaptation, should not be allowed to damage an area's character and amenity. Policies covering the physical scale and design of new buildings, access, density, and off street parking, and which take account of particular residential areas and of changing needs, may be needed. Where there is strong pressure for development which could give rise to town cramming, if not carefully controlled, planning authorities should ensure that plans include clear policies in relation to which applications will be considered. Policies which seek to make maximum use of vacant urban land for housing will need to distinguish between sites which need to be retained for recreation, amenity or nature conservation purposes, and areas which are genuinely suitable for housing development. Where substantial new housing is to be permitted, plans should include policies making clear that provision for open space, which is reasonably related in scale and location to the development, will be expected.

*Joint Housing
Land Availability
Studies, published
on a local planning
authority basis by
the Welsh
Development
Agency (prior to
October 1998 by
the Land Authority
for Wales.)*

*Technical Advice
Note (Wales)1,
'Joint Housing
Land Availability
Studies', 1997*

9.1.6 Any proposals for new settlements and urban villages should be promoted through, and fully justified in, the development plan. Plans should state clearly the contribution which developers will be expected to make towards provision of infrastructure, community facilities and affordable housing. New settlements on greenfield sites are unlikely to be appropriate in Wales, and should only be proposed where such development would offer significant environmental, social and economic advantages over the further expansion or regeneration of existing settlements.

9.1.7 Planning policies and decisions, including the provision of adequate land, have an important role to play in the preparation of local authorities' area housing strategies. Local authorities should adopt a corporate approach, involving housing and planning committees, in preparing and co-ordinating development plans and area housing strategies. In preparing strategies for land for housing it is important that the relevant Housing Strategy Operational Plan (HSOP) is considered. Where the local planning authority is a National Park Authority it should liaise closely with the housing departments and Committees of the local authorities of which the national park is part.

9.1.8 The contribution which residential mobile homes can make to overall housing provision will be very limited, nevertheless they might on occasion have a part to play in providing low cost accommodation for small households.

9.1.9 Local authorities should indicate the regard they have had to meeting the accommodation needs of gypsies. It is important that local planning authorities make adequate provision for gypsy sites in their development plans and consider having a criteria based policy for consideration of gypsy site proposals which may come forward on other land.

*Caravan Sites
Act 1968*

*Caravan Sites and
Control of
Development Act
1960.*

*Criminal Justice and
Public Order Act
1994*

*Welsh Office Circular
2/94, 'Gypsy Sites
and Planning'.*

*Welsh Office Circular
76/94, Gypsy Sites
and Unauthorised
Camping.*

9.2 Affordable Housing

9.2.1 A community's need for affordable housing is a material planning consideration which may properly be taken into account in formulating development plan policies. It may be desirable in planning terms that new housing development in both rural and urban areas should incorporate a reasonable mix and balance of house types and size to cater for a range of housing needs. Local authorities should ensure that planning policies for affordable housing are in line with the strategic planning objectives of the development plan. This may make it easier for the developer to provide affordable housing. Sites no longer likely to be needed for office or industrial purposes may be appropriate locations for affordable housing (as well as for general market housing). Higher densities should be encouraged on easily accessible sites, where appropriate, but this will need to be carefully designed to ensure a quality environment. In particular, local planning authorities should adopt a flexible approach to car parking standards as car ownership rates are generally lower for the occupants of affordable housing than for those of general market housing.

*Technical Advice
Note (Wales) 2,
'Planning and
Affordable Housing',
1996*

9.2.2 Where local planning authorities have demonstrated the need for affordable housing, by means of a local needs survey, they should include policies for affordable housing in their development plans for the areas where need has been identified. Targets for specific sites may be set if based on evidence of need and site suitability, but a uniform quota should not be imposed on development regardless of market or site conditions. Policies must indicate that an authority will seek to negotiate with developers where it is intended to include an element of affordable housing in proposed developments. Policies should also state what the authority would regard as affordable housing and what arrangements it would expect to ensure such housing remains reserved for those who need it.

9.2.3 In rural areas where there are unlikely to be sites of sufficient scale to trigger the above arrangements, special provision may be considered to help ensure the viability of the local community. Policies should make clear that the release of small housing sites, within or adjoining existing villages, for the provision of affordable housing to meet local needs, which would not otherwise be allocated in the development plan, is an exception to the policies for general housing provision and must be fully justified, setting out the type of need and the kind of development falling within the terms of the policy. Sites must meet all the other criteria against which a housing development would be judged.

10. Economic Development

10.1 Industrial and Commercial Development

10.1.1 The key aims are to encourage economic development in a way which is compatible with the Government's stated environmental and transport objectives, provide a variety of sites and, as far as possible, a balance between employment and population.

10.1.2 Development plans should provide for development to be accommodated within or adjoining the main urban areas and established local centres in rural areas. Plans should recognise and encourage the potential of smaller towns to provide employment for their own population and for the surrounding rural areas.

10.1.3 Economic development is likely to continue to focus on existing urban locations especially the heavily populated coastal strips in south Wales and north east Wales. However the Government is committed to ensuring a fairer distribution of jobs and investment throughout all parts of Wales particularly the south Wales valleys and rural Wales. Local authorities should identify sites and encourage investment into their areas through, for example the creation of Industrial Villages centred around new small and medium-sized technology companies supplying larger factories. Along the M4 and A55 corridors, and further afield, Industrial Villages have the potential to become sourcing centres for investment.

10.1.4 Sites to support economic development, especially large scale inward investment, should be identified and brought forward in development plans. Such sites should preferably be identified in the Assisted Areas, in particular in the Development Areas. Sites suitable for appropriate economic development, including distribution, should be identified in locations convenient to ferry and cargo ports.

10.1.5 Local authorities should promote the regeneration of previously developed areas and the re-use of reclaimed land and existing buildings. On certain urban sites an effective means of achieving this will be through the development of urban villages. Urban villages should foster integrated communities by promoting mixed use development, comprising appropriate combinations of housing (including affordable housing); employment; retailing; education; leisure and recreation.

10.1.6 Local authorities should aim to ensure that there is sufficient land available, which is readily capable of development and well served by infrastructure. They should also ensure that there is a variety of sites available to meet differing needs. The Welsh Development Agency (WDA) may be able to assist in the process of assembling, preparing and/or delivering such sites. Cardiff Bay Development Corporation (CBDC) has a wide brief to bring forward land for industrial, commercial, retail and leisure uses, and in particular it has been encouraged to bring forward more reclaimed land for housing development.

10.1.7 New industrial and commercial development should be encouraged in locations which meet or have the potential to meet the Government's planning policies for transport. Underused and vacant land and premises, especially those adjacent to existing or disused, but safeguarded, railway lines or docks, should be promoted by

'Pathway to Prosperity a new economic agenda for Wales', Welsh Office 1998.

From 1 October 1998 the WDA incorporates the Development Board for Rural Wales (DBRW) and the Land Authority for Wales (LAW)

CBDC will be wound up on 31 March 2000

local planning authorities indicating the industrial and commercial uses that would be acceptable. However, such development should only be promoted if it would not cause traffic congestion.

10.1.8 Sites proposed for industrial development should not be used for housing or retail development that could be located elsewhere. On the other hand some sites in urban areas with extant, but unimplemented, permissions for commercial or retailing uses may be suitable for housing development that could help bring vitality to urban centres.

10.1.9 Plans should include policies for industrial and other employment-generating and wealth-creating development; particular regard should be given to the needs of small businesses. Where policies aim to channel particular types of business development into particular locations clear justification is required. Technology and the requirements of industry and commerce are changing rapidly; plans should reflect this.

10.1.10 Plans should take account of the location of hazardous installations within, or in the vicinity of, the plan area and the need for sites for new, or for the relocation of existing, hazardous development. Plans may indicate general locations where further hazardous development may be acceptable and set out criteria to control hazardous development and other development in the vicinity. Specific locations should be proposed for those necessary industries which are detrimental to amenity and may be a source of pollution. Particular care should be taken to safeguard residential amenity, especially where there is potential for noise and/or traffic disturbance. Conditions may be used to control, for example, times of operation or to prevent weekend working in order to protect amenity.

10.1.11 Many businesses can be located in and around small settlements, and in residential areas in larger settlements, without causing unacceptable disturbance. In primarily residential areas, policies should not unreasonably seek to restrict commercial and industrial activities of an appropriate scale, particularly in existing buildings, provided there is not likely to be an adverse effect on residential amenity.

10.1.12 Simplified Planning Zones (SPZs) offer a means to encourage development and to generate private sector interest. Local planning authorities have a statutory duty to keep under review the desirability of an SPZ scheme for part or parts of their area. Where it is intended that planning consent for development proposed in a plan will be granted by making an SPZ scheme this should be indicated in the plan's reasoned justification. Plans should also take account of any existing SPZ schemes in their area.

10.1.13 The following should, in particular, be taken into account when determining planning applications relating to industrial and commercial development:

- the need to reconcile necessary development with environmental protection and other development plan policies;
- accessibility by a choice of means of travel;
- the effect on local amenity, for example, traffic generation, noise, smell, safety, health impacts, emissions;
- proximity to residential area, which may or may not be a problem depending on the nature and scale of the industrial or commercial development in question;
- appropriateness of intensification of industrial/commercial use;
- compatibility with existing industrial and commercial activities;
- the possible need for, and scale of, remedial trunk road improvements to mitigate the traffic effects of the development.

*TCP (Simplified
Planning Zones)
Regulations 1992
SI No 1992/2414*

*Technical Advice
Note (Wales) 3,
Simplified
Planning Zones,
1996.*

10.1.14 Occupancy conditions, defining the categories of people or firms who may occupy the premises, should be imposed only when this can be justified on planning grounds and where the alternative would normally be to refuse permission. In most cases it would not be appropriate to impose such conditions on buildings of less than 300 square metres of office floorspace (or 500 square metres of industrial floorspace). Occupancy conditions may not be imposed which provide for a system of vetting by the local planning authority or the use of a vague test such as needing to be located in the area.

10.1.15 Unless intensification amounts to a material change in the character of use, it cannot be controlled if unconditional planning permission has been granted. Planning authorities should, therefore, consider the use of planning conditions or planning obligations to safeguard local amenity.

10.1.16 A flexible attitude is required with respect to change of use to enable suitable re-use or new use to be instituted in under-used space where this might contribute to the preservation of the building or enhancement of the townscape.

10.2 Retailing & Town Centres

10.2.1 The Government's objectives are:

- to sustain and enhance the vitality, attractiveness and viability of town, district, local and village centres;
- to focus development, especially retail and leisure development, in locations where the proximity of businesses facilitates competition from which all consumers are able to benefit and maximises the opportunity to use means of transport other than the car;
- to ensure the availability of a wide range of shops, employment, services, and facilities in both urban and rural areas to which people have easy access by a choice of means of transport;
- to maintain an efficient, competitive and innovative retail sector.

10.2.2 Vitality is reflected in how busy a centre is at different times and in different parts, attractiveness in the facilities and character which draw in trade, whilst viability refers to the ability of the centre to attract investment, not only to maintain the fabric, but also to allow for improvement and adaptation to changing needs.

10.2.3 Town centre management involving enhancement and promotion can be an important factor in achieving vitality, attractiveness and viability. Partnership between the local authorities and the private sector is essential in order that such management is successful.

10.2.4 Development plans should provide a clear strategy for retail development and for the future of town centres. In drawing up their development plans, local authorities should initially consider the need for new retail and leisure development. If there is no need for further retail or leisure development, there will be no need to identify additional sites. If there is a need, local planning authorities should then adopt a sequential approach to selecting sites for such new development. The sequential approach should also be applied to the development of other key town centre uses. These uses, which need to be accessible to a large number of people, include offices of central and local government, commercial offices, leisure and entertainment, hospitals and tertiary education facilities.

10.2.5 Adopting a sequential approach means that first preference should be for town centre locations, where suitable sites or buildings suitable for conversion are available, followed by edge-of-centre sites, district and local centres and only then out-of-centre sites in locations that are accessible by a choice of means of transport. Local planning

*'Vital and Viable
Town Centres:
Meeting the
Challenge' Urban
and Economic
Development Group
for DoE, HMSO,
1994*

*Technical Advice
Note (Wales) 4
'Retailing & Town
Centres', 1996*

*DETR:
Government's
response to the 4th
Report from the
HOC Select
Committee on the
Environment -
Shopping Centres
Cm 3729*

authorities should take a positive approach, in partnership with the private sector, in identifying additional sites which accord with this approach. This approach also requires flexibility and realism from local planning authorities, developers and retailers. Developers and retailers will need to be more flexible about the format, design and scale of proposed development, and the amount of car parking, tailoring these to fit the local circumstances. Rather than propose developments with a mixture of large scale retail and/or leisure uses and a large amount of car parking which can only be accommodated in out-of-centre or even out-of-town locations, developers are expected to demonstrate why they could not develop elements of the larger scheme on sites in more central locations with less car parking. As proposals for development may come forward after the development plan has been adopted, the latter should include criteria based policies in line with this guidance.

10.2.6 Proposed developments for retailing and other key town centre uses, including extensions to existing developments will be assessed in relation to the strategy of the development plan and to the sequential approach to site selection, as well as: their impact on existing centres; their accessibility by a choice of means of travel; and their impact on overall travel patterns. Developers should be able to demonstrate that all potential town centre options have been thoroughly assessed, using the sequential approach, before out-of-centre sites are considered for key town centre uses. The onus of proof that more central sites have been thoroughly assessed rests with the developer, and on appeal the Secretary of State will need to be convinced that this has been undertaken. Additionally, proposals for retail or leisure developments which would be located at an edge-of-centre or out-of-centre location and which are not in accordance with an up to date development plan; or which accord with a development plan but where that plan is out of date, inconsistent with this planning policy guidance, or otherwise fails to establish the need for new retail or leisure users should be able to demonstrate a need for the additional facilities.

10.2.7 Accessibility, movement and parking are key issues to be addressed. Development should be sited so that it is readily accessible and minimises the need to travel. Town, district, and local centres or edge of centre locations which can encourage walking, cycling or the use of public transport are usually the best means of achieving this. Good access to and convenient movement within town centres is essential. Access by car should be managed to minimise congestion, pollution and parking problems which would affect the convenience, attractiveness and competitiveness of town centres. Development plans should also encourage the provision of good access to town centres for those who use public transport, this should include bus priority measures and well located bus stops and shelters. They should also encourage easy access to town centres and facilities for people with limited mobility.

10.2.8 Local planning authorities should develop policies in consultation with the private sector, which revitalise and increase the attractiveness of existing centres, paying particular attention to the character of historic towns and conservation areas. In some situations local planning authorities may need to manage the decline in relative importance of a centre as other centres expand. Although retailing should continue to underpin town centres it is only one of the factors which contribute towards their well being. Local planning authorities should include policies in their development plans to encourage a diversity of uses in town centres. Mixed use developments, for example, combining retailing with entertainment, restaurants and housing should be encouraged to promote lively centres as well as reducing the need to travel to visit a range of facilities. The restoration of redundant town centre buildings which are worthy of retention can make them suitable for re-use for a variety of retailing, commercial, entertainment, cultural or residential purposes.

10.2.9 Plans may distinguish between primary and secondary frontages in town centres and consider their relative importance to the character of the centre. Primary frontages are characterised by a high proportion of retail uses, while secondary frontages are areas of mixed commercial development including, restaurants, banks and other financial institutions. Banks and other financial institutions provide important services and local planning authorities should encourage their retention in town centres. This may include the upgrading of premises and the installation of new customer services. Such uses should not be allowed to dominate primary shopping areas in a way that can undermine the retail function.

10.2.10 District and local centres act as a focus for a range of retail and other services, including appropriately-sized supermarkets that should be easily accessible to everyone. Many of the issues which affect town centres also affect district and local centres. Similar approaches to those proposed to secure the maintenance and enhancement of town centres could be applied, at an appropriate scale, to district and local centres to encourage them to continue to provide a valuable and economically successful service to local communities. Smaller scale facilities such as health centres, branch libraries, area offices of the local authority, primary schools, pubs and restaurants should be encouraged in local centres. The need for local shops is as important in urban as it is in rural areas. Local planning authorities should encourage local convenience shopping by promoting the location of facilities including appropriately-sized supermarkets in local centres. They should seek to retain post offices and pharmacies in existing town, district and local centres and in villages. Where the inclusion of post offices and pharmacies in out-of-centre retail developments would be likely to lead to the loss of existing provision they should be discouraged by imposing appropriate conditions.

10.2.11 The scale, type and location of out-of centre retail developments should not be such as to be likely to undermine the vitality, attractiveness and viability of those town centres that would otherwise serve the community well, and should not be allowed if they would be likely to put town centre strategies at risk. Out of centre food supermarkets should not be allowed if their provision is likely to lead to the loss of general food retailing in the centre of smaller towns.

10.2.12 In assessing the impact of a major new retail development proposal on existing centres, local planning authorities should consider not only the incremental effects of that proposal but the likely cumulative effects of recently completed developments together with outstanding planning permissions and development plan commitments in the catchment areas of those centres.

10.2.13 Some types of retailing such as stores selling bulky goods and requiring large showrooms may not be able to find suitable sites in town centres. Such stores should be located at edge of centre sites or, where such sites are not available, at locations accessible to a choice of means of transport. Retail Parks, where such stores are grouped, should only be considered where accessible to public transport as well as private transport. The need for retail parks should be tested in accordance with the principles in paragraph 10.2.6 above.

10.2.14 Single retail outlets at factories selling their own products are likely to be suitable where they do not harm the vitality, attractiveness or viability of a town centre and are acceptable in regard to traffic generation, access and parking. Free-standing developments including a number of factory outlets should be assessed on the same basis as other retail proposals. The central issue is not whether goods are sold at a discount, but whether such retail developments would divert trade in comparison goods from existing town centres. Such centres may draw customers from a wide catchment area, predominantly by car, and as a result are unlikely to be consistent with the criteria in this guidance unless those issues can be satisfactorily resolved. Factory outlet centres may play a positive role in revitalising declining shopping centres where there is presently unused capacity or suitable opportunities for conversion. Warehouse clubs share many of the characteristics of very large retail outlets, and planning applications for them should be treated as if they were retail businesses.

10.2.15 Out-of-centre developments can change their composition over time. If such a change could allow a development that the planning authority would have otherwise refused, planning conditions, for example, to prevent the development from being subdivided into a large number of smaller shops and to limit the range of goods sold, should be used.

10.2.16 New regional shopping centres, with more than 50,000 square metres of gross floor space, can have a substantial impact over a wide area and severely harm the nearest major centres. Although there may be circumstances where they could fulfil an important retail need, full account needs to be taken of all likely impacts and it is unlikely that opportunities exist for such a centre in Wales at present.

10.2.17 Development plans should provide sites for different types of retail developments. They should take account of such factors as floorspace, quality,

convenience, attractiveness and traffic, but should not prescribe rigid floorspace limits, whether for town centres or other development, that would unreasonably inhibit the retail industry from responding to changing demand and opportunity.

10.2.18 When determining applications for renewal of planning permission for retail, leisure, offices and other key town centre uses local planning authorities should determine the application in accord with the up-to-date development plan and with regard to the latest Government guidance including the sequential approach. This may mean that applications are not renewed where the proposals do not accord with current policy. Applications for non-retail use of allocated retail sites should not normally be permitted. However, some sites in urban areas with extant, but unimplemented, permissions for commercial or retailing uses may be suitable for housing development that could help bring vitality to urban centres. Where vacant offices and retail premises in existing shopping centres seem unlikely to be used again for these purposes, authorities should encourage conversion to other appropriate uses. Planning applications for retail development should not normally be allowed on land designated for other uses. This advice applies especially to land allocated for industry, employment and housing, where retail development can be shown to have the effect of limiting the range and quality of sites that would be available for such uses.

10.2.19 Leisure uses can benefit town and district centres and contribute to a successful evening economy. Major leisure uses such as theatres, multi screen cinemas, bingo halls and bowling alleys should be located in town centres where sites or suitable buildings can be found, or otherwise on edge of town centre sites. Where this is not possible such developments may be located on other sites which are accessible to public as well as private transport.

10.2.20 Amusement centres are most appropriately sited in secondary shopping areas, or in areas of mixed commercial development. They are unlikely to be acceptable in primary shopping areas, close to housing, or near schools, churches, hospitals and hotels, nor in conservation areas or other places of special architectural or historic character. In resort towns, seafront locations may be preferred. Account will always need to be taken of the amount of noise already generated in the area. It will not normally be reasonable to expect amusement centres to be quieter than their neighbours.

10.2.21 Village shops can play a vital economic and social role in rural areas. The loss of village shops can be damaging to a local community. This should be taken into account when considering applications for a change of use of existing shops into dwellings or other uses. Local planning authorities should adopt a positive approach to applications for conversion of suitable village properties to shops and for extensions to village shops designed to improve their viability. The lack of public transport in rural areas should not preclude small-scale retail or service developments where this will serve local needs. Shops ancillary to other uses, such as farm shops that will help meet the demand for fresh produce and shops linked to petrol stations can also serve a useful role in rural areas, by providing new sources of jobs and services. In assessing such proposals, local planning authorities should take account of:

- the potential impact on nearby village shops;
- the likely impact of traffic generated and access and parking arrangements;
- the desirability of providing a service throughout the year.

10.3 Development in Rural Areas

10.3.1 The planning system helps to integrate the development necessary to sustain the rural economy with protection of the countryside. The Government's economic objectives for rural areas are to:

- enhance the economic success of the countryside, helping businesses to maximise their competitiveness;
- support initiative and avoid placing unnecessary burdens on enterprise;

*Technical Advice
Note (Wales) 11,
'Noise', 1997.*

*'Planning for Rural
Diversification:
A Good Practice
Guide', DoE, 1995.*

- encourage further economic diversity by helping to stimulate new and varied forms of wealth creation and employment, especially in areas which have participated less fully in economic success;
- promote the exploitation of new technologies which can provide new opportunities; and
- ensure that development respects, and where possible enhances, the environment in its location, scale and design.

10.3.2 The range of businesses which can be successfully located in rural areas is expanding. Many commercial and light manufacturing activities can be carried on in rural areas without causing unacceptable disturbance. Local authorities should bear in mind the vital role of small-scale enterprises in promoting healthy economic activity in rural areas, which can contribute to both local and national competitiveness.

10.3.3 New development in rural areas should be sensitively related to existing settlement patterns and should take account of the natural and historic resources of the area. The absence of allocated employment sites should not prevent authorities from accommodating appropriate small scale rural enterprise in or adjoining small rural settlements.

10.3.4 Development plans should contain policies which encourage economic development and diversification in rural areas. For example, the processing of agricultural products can make a significant contribution to the rural economy.

'A Food Strategy for Wales', Welsh Office, 1996.

'A guide for the Food Industry in Wales' Welsh Office, 1997.

'A guide for the Food Industry in Wales Addendum' Welsh Office, 1998.

10.4 Agricultural Development

10.4.1 An efficient and flexible agricultural industry remains essential. Local planning authorities should in general adopt a positive approach towards agricultural development proposals, which are designed, or are necessary, to achieve compliance with new environmental, hygiene or welfare legislation. TAN(W)6 'Development Involving Agricultural Land' 1996 is being revised as TAN(W)6 'Agricultural and Rural Development'.

*TAN(W)6
'Development Involving Agricultural Land'
1996 is being revised as TAN(W)6
'Agricultural and Rural Development'*

10.4.2 Agriculture and forestry permitted development rights are granted to meet farming and forestry needs and not for purposes of diversification. They should not be abused, for example, to circumvent normal planning policies on new building in the open countryside. Local planning authorities should check the lawfulness of developments to be carried out under permitted development rights. New farm buildings must be sited on land which is in use for agriculture for the purposes of a trade or business, and must be reasonably necessary for the purposes of agriculture within an agricultural unit which is at least 5 hectares in area, as well as meeting other conditions, governing the exercise of permitted development rights.

*GPDO, 1995,
Schedule 2, Part 6,
Class A.*

10.4.3 Amendments to Classes A and B of Part 6 of Schedule 2 to the General Permitted Development Order will have implications for the erection, significant extension or significant alteration of buildings on or after 1 April 1997, in the following cases:

- where such development permanently ceases to be used for agriculture within ten years of its substantial completion, and
- planning permission has not been granted authorising development for purposes other than agriculture within three years of the permanent cessation of the agricultural use, and there is no outstanding appeal.

The building or extension must be removed unless the local planning authority have otherwise agreed in writing.

10.4.4 If the local planning authority has good reason on the facts to believe that the building did not benefit from agricultural permitted development rights (for example, because inadequate evidence has been put forward or is available from inspection that it was used for the purpose for which it was claimed to have been built) it may, having regard to all material considerations, refuse permission for re-use and trigger removal. Where abuse of permitted development rights is not an issue, the guidance in paragraph 10.5 on the re-use of rural buildings applies. In this case a building should only be removed if proposed re-uses are unacceptable on planning grounds. The Order requires the developer to notify the local planning authority of the date of substantial completion; the authority should keep a record of this.

10.5 Re-use and Adaptation of Rural Buildings

10.5.1 The re-use and adaptation of existing rural buildings has an important role in meeting the needs of rural areas for commercial and industrial development, as well as for tourism, sport and recreation. Local planning authorities should adopt a positive approach to the conversion of rural buildings for business re-use provided that:

- a. they are of permanent and substantial construction;
- b. conversion does not lead to dispersal of activity on such a scale as to prejudice town and village vitality;
- c. their form, bulk and general design are in keeping with their surroundings;
- d. imposing conditions on a planning permission overcomes any planning objections, for example on environmental or traffic grounds which would otherwise outweigh the advantages of re-use; and
- e. if the buildings are in the open countryside, they are capable of conversion without major or complete reconstruction.

10.5.2 Residential conversion of buildings which have ceased to be used for industrial or commercial purposes, including agriculture, can have a minimal economic impact, and may be detrimental to the fabric and character of historic buildings, while business conversions generally have a more positive economic impact on local employment. Local planning authorities should consider the needs of their areas for business, and residential, conversions. Especially in areas where the creation of local employment is a priority, they may include policies in their development plan which do not allow residential re-use unless either:

- a. the applicant has made every reasonable attempt to secure suitable business re-use, and the application is supported by a statement of the efforts which have been made; or
- b. residential conversion is a subordinate part of a scheme for business re-use.

These considerations are in addition to the criteria in paragraph 10.5.1. It may be appropriate to apply similar control to that over new house building in the open countryside (see paragraph 10.6.1) especially if the existing building is unsuitable for conversion without extensive alteration, rebuilding or extension, or if the creation of a residential curtilage would have a harmful effect on the character of the countryside.

10.6 Agriculture and Forestry Dwellings

10.6.1 New housebuilding and other new development in the open countryside, away from established settlements, should be strictly controlled. Isolated new houses in the open countryside require special justification, for example, where they are essential to enable farm or forestry workers to live at or close to their place of work. Agricultural needs cannot justify the provision of new dwellings as retirement homes for farmers.

10.6.2 The following, in particular, should be considered when determining planning applications for agricultural and forestry dwellings:

- a functional test to establish whether, for the proper functioning of the enterprise, one or more workers needs to be readily available at most times, in terms of both its current and likely future requirements;

- new permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. A financial test is necessary for this purpose, and to provide evidence of the size of dwelling which the unit can sustain.

10.6.3 It is important to establish that stated intentions to engage in agriculture or forestry are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period. If it is considered that a new dwelling will be essential to support a new farming activity, whether on a newly-created agricultural unit or an established one but the case is not completely proven, it should normally for the first three years be provided by a caravan, or a wooden structure which can be easily dismantled, or other temporary accommodation. Temporary agricultural dwellings should satisfy normal planning requirements, for example on siting and access, and will have to be removed at the end of the period for which the permission was granted. Local planning authorities should not grant temporary planning permissions in locations where they would not permit a permanent dwelling.

10.6.4 Where the need to provide accommodation to enable farm or forestry workers to live at or near their place of work has been accepted as justifying isolated residential development in the open countryside, it will be necessary to ensure that the dwellings are kept available for this need. For this reason planning permission should be granted subject to an occupancy condition.

11. Control Of Outdoor Advertisements

11.1 The main purpose of the advertisement control system is to help everyone involved in the display of outdoor advertising to contribute positively to the appearance of an attractive and cared-for environment in cities, towns and the countryside. The statutory provisions enable local planning authorities to control the display of advertisements when it is justified, in the interests of amenity and public safety. The control regime does not enable the authority to regulate the subject-matter of any advertisement. The vital consideration, in assessing an advertisement's impact on public safety, is whether the advertisement itself, or the exact location proposed for its display, is likely to be so distracting, or so confusing that it creates a hazard to, or endangers, people in the vicinity who are taking reasonable care for their own and others safety.

11.2 All outdoor advertisements are intended to communicate information, or messages, to passers-by. The decisive policy consideration in considering an advertisement's impact on amenity is whether it will adversely affect the appearance of the building, or of the immediate neighbourhood, where it is to be displayed. In deciding advertisement applications, local planning authorities should therefore consider the local characteristics of the neighbourhood, including its scenic, historic, architectural or cultural features. Because assessment of these factors may appear to involve some subjective judgement, authorities should be consistent in their assessment of visual impact in similar or comparable neighbourhoods or surroundings. The reasons for an authority's decision to refuse consent for the display of an advertisement should always be carefully explained to the applicant.

11.3 No advertisement sign should be displayed without the consent of the landowner, and it is an offence to erect or paint signs on any part of a public highway. Unless applicants are able to demonstrate prior highway authority authorisation for the proposed sign(s), then applications to display advertisements on (or overhanging) highway land should be refused automatically.

11.4 Revised guidance on the relaxed criteria for allowing brown and white tourist signing was issued in 1996. Applications requiring highway signs, with sites that meet these criteria, should be invited to apply to the appropriate highway authority.

TCP (Control of Advertisements) Regulations, 1992 and 1994 SI Nos 1992/666 1994/2351

Highways Act 1980, Section 132.

Welsh Office Circular 3/96, 'Traffic signs to Tourist Attractions and Facilities in Wales'.

12. Tourism, Sport and Recreation

12.1 Tourism

12.1.1 The Government is committed to the encouragement of tourism and an improvement in tourist facilities, maximising its economic and employment benefits, promoting geographical and seasonal spread and encouraging the development of non-traditional destinations, while safeguarding the environment, and the interests of local communities.

12.1.2 Development plans should seek to enable facilities and accommodation for tourism to be provided and improved, while tackling any adverse effects in a positive, constructive way. They should consider the scale and distribution of tourist activity in the area and the implications of likely future changes. They should indicate how future tourist needs may be accommodated in ways which moderate environmental impact, protect landscape and areas of special interest, and outline ways in which tourism can contribute to economic development, conservation and regeneration. In addition to supporting the continued success of existing tourist areas, plans should encourage appropriate tourist related commercial development in new destinations including existing urban areas, and in other locations well served by public transport. In rural areas in particular, the scale and nature of such development must be sensitive to the local environment.

12.2 Sport and Recreation

12.2.1 The Government seeks to support the development of sport and recreation which is important for the individual and for the social and economic life of Wales. Such opportunities should, wherever possible, be available for everyone, including elderly people and those with disabilities. The planning system should ensure that adequate land and water resources are allocated both for organised sport and for recreation taking full account of the need for recreational space and current levels of provision and deficiencies and the impact on the location.

12.2.2 Open spaces with significant recreational or amenity value should be protected from development, particularly in urban areas. All playing fields whether owned by public, private or voluntary organisations, should be protected except where facilities can best be retained and enhanced through the redevelopment of a small part of the site: alternative provision of equivalent community benefit is made available: or there is an excess of such provision in the area.

12.2.3 In setting out guidance on sport and recreation provision, including the scope for major initiatives, development plans should justify the amount and location of any new provision, against the competing pressures for the use of land. Local planning authorities should consider including in their plans their own standards of provision for sport and recreation based on their assessment of need. This involves an assessment of current provision in relation to standards, the identification of needs and the preparation of development plan policies which address these needs.

12.2.4 In urban areas where land supply is limited, sports facilities which are capable of intensive use will reduce pressure on urban open space. Consideration should be given in appropriate locations particularly in rural areas, to the dual use of school facilities, the provision of village halls and appropriate conversions of farm and other buildings.

12.2.5 Development plans may also include policies for the recreational use of redundant railway lines or space alongside canals and rivers, provided in the latter case care is taken to ensure there will be no detriment to flood defences. Sometimes such routes may serve the dual purpose of providing linear parks in urban areas. Routes shared with pedestrians, and sometimes with horseriders, should be considered where space allows. Provision of cycle routes and cycle priority measures should be encouraged in new development. As with pedestrian routes, care needs to be taken to ensure that cycle routes are not isolated from all other activity.

*Technical Advice
Note (Wales) 13
'Tourism' 1997.*

*Technical Advice
Note (Wales) 16,
'Sport and
Recreation' 1998*

13. Energy

13.1 The Government's general aims are to ensure that society's needs for energy are satisfied, consistent with protecting the local and global environment; that any environmental damage or loss of amenity caused by energy supply or ancillary activities is minimised; and that unnecessary sterilisation of energy resources is prevented. Its policy is to stimulate the exploitation and development of renewable energy sources wherever they have prospects of being economically attractive and environmentally acceptable.

13.2 Renewable energy generation from sources such as wind, waste, water, sun and wood should be addressed in development plans. Development plan policies should recognise the need for renewable energy and each authority should consider the contribution it might make to meeting demand on a local, regional and national basis. Authorities should consider both the impact of renewable energy projects, including associated infrastructure, on the local environment and their contribution to reducing emissions of greenhouse gases, and other pollutants.

13.3 The reasoned justification should indicate what account has been taken of renewable energy, and the potential for exploiting it, in formulating the general policies and proposals. The general location of any individual project likely to have a significant effect on the area should be included, while policies for developing renewable energy sources should identify broad locations, or specific sites, suitable for the various types of installations.

14. Waste Treatment and Disposal

14.1 The Government's general policy towards waste management is based on a hierarchy of: reduction, re-use; recovery (including material recycling, energy recovery and composting); and safe disposal. A sustainable approach to waste management will in general require greater emphasis on reduction, re-use and recovery, and less reliance on disposal without recovery. Local authorities may wish to consider recovering energy from waste as an option in conjunction with recycling and composting activities. Waste should be disposed of (or otherwise managed) as close to the point of its generation as possible. This means that in Wales the aim should be to provide sufficient facilities to treat or dispose of all the waste produced. Local authorities should encourage the movement of waste by rail and water rather than by road wherever economically feasible and having regard to the proximity principle. Development plans should reflect these aims, and indicate the regard which the local planning authority has had to any waste management plan in its area.

14.2 Planning authorities in determining applications, are obliged by EC Directives on waste to establish an adequate network of waste disposal installations, and to ensure that waste is recovered or disposed of without harming the environment, without endangering human health or causing a nuisance through noise, or adversely affecting the countryside or places of special interest.

14.3 The Environment Agency, which has responsibility for waste regulation, and local planning authorities are expected to work closely together to ensure the planning and pollution control regimes are implemented in a complementary way.

*'Making Waste Work,
A Strategy for
Sustainable Waste
Management in
England and Wales',
CM3040, 1995*

*TCP (Development
Plan) Regulations
1991, SI No 1991/
2794, Regulation 9*

*Article 5, EC
Framework Directive
on Waste. (75/442/
EEC, as amended by
91/156/EEC)*

*Environment Act
1995.*

*Welsh Office Circular
46/95, 'Environment
Act 1995: Transfer of
Property, Rights and
Liabilities from Waste
Regulation Authorities
to the Environment
Agency'*

15. Land Reclamation, Unstable Land, Contaminated Land and Flood Risk

15.1 Land Reclamation

15.1.1 Derelict and waste land should be restored and where possible brought back into beneficial use. Preference should be given to development of derelict, and waste land, as opposed to the development of green field sites.

15.2 Unstable Land and Contaminated Land

15.2.1 The planning system should guide development to lessen the risk from natural or man-made hazards, including risk from contaminated land. The aim is not to prevent the development of such land, though in some cases that may be the appropriate response. Rather it is to ensure that development is suitable and that the physical constraints on the land are taken into account at all stages of the planning process. However, responsibility for determining the extent and effects of instability or other risk remains that of the developer. It is for the developer to ensure that the land is suitable for the development proposed as a planning authority does not have a duty of care to landowners.

15.2.2 Land instability and contamination must be considered by local planning authorities in preparation of their development plans to ensure that:

- i. new development is not undertaken without an understanding of the risks, including those of subsidence, mine and landfill gas emissions, landslips or rock falls;
- ii. development does not take place without appropriate precautions;
- iii. development should not be allowed if expensive engineering projects, which have implications for the public purse, will be required to prevent erosion, or in the case of receding cliffs if the site is likely to be affected during the lifetime of the development; and
- iv. unstable land is restored to safeguard investment and, where possible, returned to productive use.

15.2.3 Local authorities should therefore take into account the nature, scale and extent of ground instability or contamination which may pose direct risks to life and health, buildings and structures, or indirect hazards associated with ground movement such as the possible migration of landfill or mine gas.

15.2.4 Where appropriate development plans should indicate the general location of known areas of unstable ground and may also include specific proposals for sites known to be contaminated or where the site history suggests a risk of contamination. Policies for these areas must be accompanied by the warning that they have been defined on the basis of the best information available to the planning authority, are not necessarily exhaustive and that responsibility for determining the extent and effects of such constraints remains that of the developer. Proposals for areas of unstable or contaminated land should take due account of physical constraints and may recommend action on land reclamation or other remedial action to enable beneficial use of unstable land. Policies for the rehabilitation and development of existing contaminated and derelict sites should also be included.

15.2.5 Plans may indicate that the local planning authority will need to be satisfied that a site is stable or that any actual or potential instability or contamination can reasonably be overcome. Where acceptable measures could overcome such instability and contamination, then planning permission may be granted subject to conditions

Environmental Protection Act, 1990, as amended by the Environment Act, 1995 Section 57.

Draft Technical Advice Note 'Development on Unstable Land'

Draft Technical Advice Note 'Development on Contaminated Land'

specifying the necessary measures. If instability and contamination cannot be overcome satisfactorily, the authority may refuse planning permission.

15.2.6 Planning decisions need to take into account:

- the potential hazard that instability and contamination could create both to the development itself and to the neighbouring area; and
- results of a specialist investigation and assessment by the developer to determine the stability and contamination of the ground and to identify any remedial measures required to deal with any instability or contamination.

15.2.7 When planning permission is granted, a notice should be issued to inform the applicant that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. It should also advise the applicant that although the local planning authority has used its best endeavours to determine the application on the basis of the information available to it, this does not mean that the land is free from instability and contamination.

*Welsh Office Circular
22/87, 'Development
of Contaminated
Land'*

15.3 Flood Risk

15.3.1 The results of surveys (under section 105(2) of the Water Resources Act 1991) and other information provided by the Environment Agency should be taken into account by planning authorities as they prepare their development plans. Plans should indicate policies relating to development in areas where there is the potential for flooding, but should relate to the degree of risk as notified by the Agency, and the standards of protection. Proposals maps should indicate where such policies should apply.

15.3.2 Planning authorities will need to ensure that planning decisions take account of any risk of flooding, whether inland or from the sea. Section 105 surveys will also be useful when considering planning applications although planning authorities will nevertheless need to consult the Agency on individual planning applications before granting planning permission where significant flood defence considerations may arise. Planning authorities should bear in mind that new development in areas of flood risk should make provision for flood defence.

*Technical Advice Note
(Wales) 15,
'Development and
Flood Risk', 1998.*

16. Pollution

16.1 The planning system should determine whether a development is an acceptable use of land rather than seeking to control the processes or substances used in any particular development. Planning authorities should operate on the basis that the relevant control regimes will be properly applied and enforced by other agencies. Planning authorities should not seek to control through planning measures, matters that are the proper concern of the pollution control authority. Rather the planning interest should focus on any potential for pollution, but only to the extent that it may affect the current and future uses of the land.

*Environment Act
1995*

*Environmental
Protection Act (as
amended) 1990*

16.2 Development plans are an important vehicle for the promotion of environmental protection and should include strategic policies on the location of potentially polluting developments. Plans may set out policies and proposals to ensure that incompatible uses of land are separated, in order to avoid potential conflict between different types of development. They should make realistic provision for the types of industry or facility which may be detrimental to amenity or conservation interests, or a potential source of pollution. They should set out criteria by which applications for potentially polluting developments may be determined, but not exclude provision for such projects or prohibit all applications to set them up.

16.3 The potential for pollution affecting the use of land may be a material consideration in deciding whether to grant planning permission. Material considerations are likely to include:

- location, taking into account such considerations as the reasons for selecting the chosen site itself;

- impact on amenity;
- the risk and impact of potential pollution from the development insofar as this might have an effect on the use of other land;
- prevention of nuisance;
- impact on the road and other transport networks and on the surrounding environment; and
- need, where relevant, and feasibility of restoring the land (and water resources) to standards sufficient for an appropriate after use.

16.4 Planning authorities may use planning conditions or obligations to meet planning aims to protect the environment, where these are relevant to the development proposed. But it is important for planning authorities to understand the scope and purpose of conditions that can now be imposed by pollution authorities and to ensure that planning conditions neither duplicate nor conflict with such conditions.

17. Cancellations

17.1 ‘Planning Guidance (Wales): Planning Policy’, May 1996 is cancelled.

17.1.2 The following parts of PPGs continue to remain in force in Wales until superseded by relevant Technical Advice Notes (Wales).

PPG	Parts of PPG remaining in force	
PPG 7 (January 1992)	Annex B:	Planning controls over Agricultural Development
	Annex C:	Guidance for local planning authorities on agricultural and forestry buildings and roads constructed under permitted development rights
	Annex D:	Re-use and adaptation of rural buildings
	Annex E:	Agricultural and forestry dwellings
	Annex F:	Development involving horses
	Appendix :	Model determination form
PPG 14 (1990)	Appendix A:	Causes of Instability
	Appendix B:	Sources of information

Annex A

Planning Guidance (Wales), Technical Advice Notes (Wales) (TAN(W)s)

1. Published

- TAN(W) 1 Joint Housing Land Availability Studies (revised) (1997)
- TAN(W) 2 Planning and Affordable Housing (1996)
- TAN(W) 3 Simplified Planning Zones (1996)
- TAN(W) 4 Retailing and Town Centres (1996)
- TAN(W) 5 Nature Conservation and Planning (1996)
- TAN(W) 6 Development Involving Agricultural Land (1996)
- TAN(W) 7 Outdoor Advertisement Control (1996)
- TAN(W) 8 Renewable Energy (1996)
- TAN(W) 9 Enforcement of Planning Control (1997)
- TAN(W) 10 Tree Preservation Orders (1997)
- TAN(W) 11 Noise (1997)
- TAN(W) 12 Design (1997)
- TAN(W) 13 Tourism (1997)
- TAN(W) 14 Coastal Planning (1998)
- TAN(W) 15 Development and Flood Risk (1998)
- TAN(W) 16 Sport and Recreation (1998)
- TAN(W) 17 Environmental Assessment (1998)
- TAN(W) 18 Transport (1998)
- TAN(W) 19 Telecommunications (1998)

Available from:

Y Llyfrfa Oriol The Stationery Office

18/19 High Street

Cardiff

CF10 1PT

Telephone: (029) 2039 5548, Fax: (029) 2038 4347

2. Issued for public consultation

- TAN(W) 6 Agricultural and Rural Development (1998)
- TAN(W) Development on Unstable Land
- TAN(W) Development of Contaminated Land
- TAN(W) Planning, Pollution Control and Waste Management
- TAN(W) The Welsh Language: Unitary Development Plans and Planning Control (1998)

Consultation drafts available from:

Mrs J Baglow

Planning 2A

Welsh Office

Cathays Park

Cardiff

CF10 3NQ

Telephone: (029) 2082 3869