

PLANNING EXPLANATION

The planning system is intended to provide a comprehensive set of policies which cover the development of land. Planning law states that each County must have a “Development Plan” and that decisions on planning applications must be made in accordance with the Plan unless “material considerations” indicate otherwise.

Normally, in deciding on the contents of the Development Plan, each County Council will consider national planning policy. But of course national planning policy may change. If it does then this could be a “material consideration” justifying a decision out of line with the Development Plan.

National planning policy is set out in various documents the most important of which are Planning Policy Wales, MIPPS (Ministerial Interim Planning Policy Statement) and the various Technical Advice Notes (TANs) each of which covers a particular aspect of policy. For instance, affordable housing guidance is to be found in TAN 2 while advice re development in the open countryside is to be found in TAN 6.

In Ceredigion, the Development Plan is called the “Dyfed Structure Plan”. This plan dates from the late 1980’s and is therefore very badly out of date.

Ceredigion’s attempts to replace it with a new Development Plan called the Unitary Development Plan (UDP) failed. The policies in the UDP remain “material considerations” in deciding planning applications and represent the most up to date information available as to the planning authority’s thinking.

As a result of a change in the law, all authorities in Wales are now required to create a new Development Plan to be called a Local Development Plan (LDP).

They are required to agree with the Assembly Government how they will do this and then to stick to that agreement. The agreement is called a Delivery Agreement (DA) and it should set out both how the LPA will engage the local community when discussing the policies that should go into the plan and the time table leading to the adoption of the plan.

Before a plan can be adopted it has to be considered at a public hearing by a Planning Inspector. The Inspector has to decide if the Plan is “sound”. What this means is not explained in the law but the Planning Inspectorate say this:

“LDPs must be sound in terms of their content and the process by which they are produced and must be founded on a robust and credible evidence base. The term “sound” may be considered within its ordinary meaning of ‘showing good judgment’ and ‘able to be trusted’

There are 2 very important ideas which underpin planning policy. The first is that development should be sustainable. This idea isn’t explained very well. Policy talks about different sorts of sustainability (eg. social, economic and environmental). There is

now a requirement that the Development Plan be accompanied by a Strategic Environmental Assessment (SEA) which would seem to put environmental sustainability as the first consideration but this is a new requirement and what it means in practice remains to be seen.

The second important idea is that the countryside should be protected from development. The justification for this is unclear. It is sometimes said that the countryside is a resource in itself and should be protected as such. It is also said that, in a world where people work other than where they live and shop in supermarkets in towns, then building in the countryside is less sustainable since it is likely to involve more travel.

In practice, development plans have traditionally embodied these ideas in policies which work by assumption rather than evidence. For instance, development in the countryside is curtailed while development in rural settlements is permitted even though in practice this has the same implications in terms of travel. Similarly, development in the countryside is curtailed even though it may need the countryside's resources because it doesn't create money as an end product of the endeavour. This may be so even if allowing the development would actually be more sustainable.

The emphasis in LDPs on a "sound evidence base" may represent an opportunity to address these issues.

In terms of Low Impact Development (LID), policy both nationally and at county level has nothing to say. To the extent that these matters are addressed at all, this tends to happen through the Building Regs which fix specifications for buildings. Here again though, the regulations do not deal comprehensively with factors which might make a development Low Impact and tend to look only at how the building will "perform" rather than an overall consideration of eg. the energy embodied in its creation. In any event, the building regs only apply to buildings which have been given planning permission and at that stage very little consideration is given to either how people will live in the building or how it will be built.

This doesn't mean that you can't get planning permission for a LID. It just means that whether you can or not depends on the general policies in the Development Plan together with any other "material considerations". So, for instance, you could get planning permission for a straw bale house in a village within present policy (eg. Rachel Whitehead's straw bale house in St Dogmaels).

Of course to do so you would first need to have a "plot" and this is where the relationship between affordable housing and LID comes into play because within a village the cost of a plot makes it unlikely that LID will take place. There is a policy which allows affordable housing on the edge of settlements where general development would not be permitted. In theory this means that the land should be cheaper but in practice land so close to a settlement will have "hope value". In other words the owners will hang on to it in the "hope" that the village will expand and thus make their land part of the settlement. So very little such land in fact becomes available for affordable housing.

Land in the open countryside, however, which has no expectation of development changes hands at agricultural values. Typically this might be say £3000 per acre while building land would cost perhaps £200,000 an acre.

So land in the countryside is affordable. But it's only affordable because you can't build on it. The minute you can, its value increases.

The challenge then is to acknowledge the legitimate planning concerns about the countryside while challenging the assumptions which go beyond those legitimate concerns, and to create planning policy which allows development in the countryside but subject to controls which maintain the affordability of the land. The justification for accepting this challenge is the creation of affordable low impact dwellings which can be lived in by those committed to a truly sustainable future.

So far the only county to take up this challenge is Pembrokeshire who have created a policy which draws on the guidance in TAN 6 but which removes the requirement in the TAN that the undertaking should be "profitable".

The policy represents a brave start into uncharted waters. However not surprisingly the policy is unlikely to represent the last word in addressing these issues. It is better seen as a basis for discussion. What matters now is to ensure that discussion takes place, and to bring to the discussion positive proposals as to how policy can be developed both nationally and at county level to ensure the growth of a vibrant and sustainable countryside in which people live and meet their needs.

There are 2 forums in which to progress matters. One is the LDP preparation process within each county, and the other is in seeking changes to national policy. In the latter regard there are plans to revise TAN 6 to take account of LID, and clearly a successful outcome to those revisions will help considerably in moving on the debate at LPC level.

There is one final source of policy which needs to be considered. In theory it isn't a source of policy at all but just an expansion of what's in the Development Plan. This source is called Supplementary Planning Guidance (SPG) and in practice it can be a very significant source of policy. For instance, all of the stuff about needing to meet 75% of your basic needs off the land to be allowed to build LID in the countryside in Pembs is not in their Development Plan at all; it's in the SPG. Although SPGs will be consulted on by County Councils, they do not have to go to an examination in public in front of an Inspector so really they are an easy way for Local Planning Authorities to introduce policy with only limited discussion.