

John Griffiths AC /AM
Gweinidog yr Amgylchedd a Datblygu Cynaliadwy
Minister for Environment and Sustainable Development



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref P-04-351
Ein cyf/Our ref JG/06899/12

William Powell AM
Chair Petition's committee
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA

7 September 2012

Dear William,

Please accept my apologies for the delay in responding to your letter dated 13 January which has been forwarded to me as a matter falling within my portfolio. I trust the following explanation of the legislative context of preparing a plan, the public scrutiny all plans undergo and the description of the powers available to Welsh Ministers will explain why I consider the petition is ill-founded and its suggested action should not be taken.

The Planning and Compulsory Purchase Act 2004 (section 62) places a statutory duty on local planning authorities across Wales (25 in total) to prepare a Local Development Plan (LDP) for their administrative area. The 2004 Act, combined with the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005, set out the due process to be followed when preparing a LDP. Key to the preparation of a LDP is the requirement for a robust and credible evidence base which supports its content.

To assist LDP preparation the Welsh Government published 'Local Development Plans Wales 2005' following substantive consultation with stakeholders, including local planning authorities. Paragraph 4.3 of LDP Wales builds on section 64 of the 2004 Act which requires an authority to keep all matters under review that are expected to affect development of its area. Clearly, population change, both in structure and size is one of the matters specifically highlighted in "... the size, composition and distribution of the population;" (paragraph 4.3, criterion iii).

National planning policy is set out in Planning Policy Wales (PPW) supported by Technical Advice Notes (TANs); Minerals Planning Policy Wales (MPPW) and Minerals Technical Advice Notes (MTANs). All LDPs should take account of the aforementioned. All these documents have again been subject to stakeholder consultation and supported by a robust and credible evidence base.

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Caerdydd • Cardiff
CF99 1NA

Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence: John.Griffiths@wales.gsi.gov.uk

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With regard to the level of housing provision set out in each LDP, the Welsh Government does not set a specific level of housing for each local planning authority. PPW (paragraph 9.2.2) clearly states that the latest Welsh Government projections (currently 2008 base) form the starting point when preparing a LDP:

“The latest Assembly Government local authority level Household projections for Wales should form the starting point for assessing housing requirements.”

“Local planning authorities should consider the appropriateness of the projections for their area, based upon all sources of local evidence, including the need for affordable housing identified by their Local Housing Market Assessment.”

“Where local planning authorities seek to deviate from the Assembly Government projections, they must justify their own preferred policy-based projections by explaining the rationale behind them in terms of the issues listed at paragraph 9.2.1 above (refers to PPW).”

The Welsh Government Statistical Division is responsible for preparing and publishing population and household projections. Informed by technical advice groups the Welsh Government produced 2006 and 2008-based population and household projections at a unitary authority level. These projections provided a more refined evidence base to assist local authorities in preparing their LDP. The projections are trend based projections. They are not policy based forecasts of what may happen, and they do not make allowances for the effects of local or central government policies on future population levels, distribution and change. This is specifically why PPW provides the opportunity for local authorities to deviate from the projections, provided they can justify a deviation with robust and credible evidence.

The Welsh Government projections have been developed in close collaboration with local authorities and key users in Wales - through the Wales sub-national population working group (WASPP). The WASPP group was originally formed as a subgroup of the Welsh Statistical Liaison Committee. The WASPP group has met on a regular basis over the past four years, and has been a forum for technical discussion on the methodology, the base data, and the launch of the population projections. Members of WASPP include local authority representatives with knowledge of and/or experience of demographic data and population projections.

In addition, both the 2006 and 2008 based Household and Population Projections were developed using Technical Advice Groups (TAGs). These groups provided a forum for discussing and agreeing the methodology and base data. Officers from local authorities formed the basis for these groups. Following discussions and publication of the projections, the Welsh Government enabled all local authorities to have access to the base data and methodology. Local authorities can therefore undertake further modelling, taking account of more refined local circumstances, if appropriate, to produce alternative outputs. The quality of the evidence will be central to demonstrate a LDP can be found ‘sound’ and adopted after examination.

With access to the projection model, assumptions underpinning it, as well as a raft of additional evidence collated by a local authority when preparing their LDP, if other evidence indicates a different level of provision this can be a reason to deviate. Critical will be the robustness of such evidence which will be tested by the appointed Inspector through the examination process. The implications for the plan and locality of not following the projections will also need to be clearly articulated.

To conclude what the precise level of housing provision is set out in a LDP, all plans are subject to a public examination. This is a transparent and open process, led by an independently appointed Inspector who, after reviewing all the evidence to support the plan


and all representations made on the plan, will conclude whether the plan can be found 'sound' and therefore adopted. This due process is set out in the 2004 Act, supplemented by the LDP Regulations. The actual running of the examination is down to the appointed Inspector, under general guidance issued by the Planning Inspectorate Wales.

The LDP process includes statutory stages at which any individual, group or body can make representations. Thus if individuals or organisations believe their views have not been taken into to date by the local planning authority, the conclusions reached are flawed, or the evidence to support such conclusions is not robust, there is ample opportunity to express their concerns. The examination process includes hearings in public where representors who have made a duly made representation have a right to appear. The appointed Inspector will seek to determine the merit of such concerns, based on evidence both through written representations and orally at public hearings. Consequently, if the level of housing provision is considered too high, or too low, evidence to support such a view will be considered. The Inspector's report, which is binding, is also critical in its reference to evidence base as part of the due process to scrutinise a LDP. Once the Inspector's binding report has been issued a local planning authority is bound by the 2004 Act and Regulations to adopt the plan. The LDP process includes a legal challenge period immediately following adoption of the plan. This means that if the correct procedure has not been considered to have been followed a legal challenge, potentially ending in the High Court can be pursued.

The petition seeks the 'recall' of all adopted and emerging LDPs. Whilst the Welsh Government has powers contained within the 2004 Act to intervene, call-in or direct during the plan preparation process, once a plan is adopted there are no legal powers to 'recall' a plan. An adopted LDP is the extant development plan until replaced by a subsequent plan. In this regard the Welsh Government does not have to powers to act on the petitions request as it is beyond its powers. As all plans will have been subject to a due process including public scrutiny and testing of the evidence to support the plan, it would be inappropriate to override such a democratic process.

In summary, the Welsh Government's population and household projections do not cause an inflated level of housing provision set out in LDPs; indeed they do not dictate the level of provision as they clearly form the starting point. They are provided to assist plan preparation, forming one part of the evidence base. Local planning authorities can deviate from the projections provided they have sufficient robust and credible evidence to justify such a position and can explain this coherently to an independently appointed Inspector. There is a due process set out in the current legislation and regulations to ensure this can happen. As there is a due process set out in legislation in which to prepare a LDP with sufficient opportunity for all stakeholders to make their views known I cannot agree with the petition. The Welsh Government also doesn't have powers in relation to a LDP once adopted.

I trust this clarifies the position.

Best wishes


John Griffiths AC / AM

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