

Plan-making under the Planning (Wales) Act 2015

Rhodri Price Lewis QC
2 November 2015

Plan-making under the 2015 Act



The Preamble:

“An Act of the National Assembly for Wales to make provision about national, strategic and local development planning in Wales ...”

Explanatory Memorandum to the Bill:

“Addressing identified deficiencies at national and strategic levels by replacing the Wales Spatial Plan (WSP) by a National Development Framework (NDF) and introducing provisions which would allow the preparation of Strategic Development Plans (SDPs) where needed”

Plan-making



Three types of plan:

- (1) A National Development Framework (“NDF”);
- (2) Strategic Development Plans (“SDPs”);
- (3) Local Development Plans (“LDPs”).

National Development Framework



2013 Consultation Paper (para. 4.3):

“Since devolution, there has been a growing expectation from stakeholders and the public that ... the Welsh Government should play a more active role in the direct delivery of planning services by adopting an active stewardship role – capitalising further on the devolution dividend. This has been driven by a desire to see national policies implemented locally ...”

National Development Framework



- NDF to have development plan status.

Section 38(4) of the Planning and Compulsory Purchase Act 2004 (“PCPA”) is amended by section 9 of the 2015 Act.

- Relationship with local plans:

Old: Local plans had to “have regard to” the Wales Spatial Plan.

New: Local plans must be “in general conformity with” the NDF.
(Section 7 of the 2015 Act amends section 62 PCPA)

National Development Framework



The preparation and revision of the NDF: section 3 of the 2015 Act, which provides for a new section 60 PCPA, and sections 60A-C PCPA.

NDF is not subjected to an examination process akin to local plans. Instead, Welsh Ministers must:

- Conduct 12-week consultation;
- Present a draft NDF to Assembly for 60 days;
- Have regard to Assembly resolutions/recommendations;
- Publish NDF.

5 year review period, revision at any time (following above process).

National Development Framework



Objectives (Consultation Paper, para. 4.10):

- “To set out the Welsh Government’s land use priorities by identifying key locations to accommodate change and infrastructure investment;
- To provide a national land use framework for Strategic Development Plans (SDPs) and LDPs;
- To co-ordinate and maximise the potential benefits arising from funding streams including the Wales Infrastructure Investment Plan (WIIP), UK Government infrastructure investment, European Union (EU) assistance and private sector investment; and
- To provide the development plan context for Welsh Ministers to make decisions on Developments of National Significance (DNS) ...”

Strategic Development Plans



The 2015 Act gives the Welsh Ministers a power by regulations to designate an area of Wales as a “strategic planning area” and establish a “strategic planning panel” for that area: section 60D PCPA (amended by section 4 of the 2015 Act).

The panel publish a Strategic Development Plan.

Cross boundary matters of more than local community importance.

Potential SPAs: Cardiff, Swansea and the A55 Corridor.

Strategic Development Plans

- Development Plan status: section 38(4) PCPA.
- An SDP “must be in general conformity” with the NDF: section 60I.
- The strategic planning area must include all of one local planning authority’s area and all or part of at least one other authority’s area: section 60D(2) PCPA.

Local Development Plans

- Must be “in general conformity with” SDPs and NDF.
- Must consider need to review LDPs in light of new SDPs or NDF: section 68A PCPA.
- New rules on withdrawal of local development plans before adoption: sections 66 and 66A PCPA.
- New power - Section 14 of the 2015 amends section 72 PCPA to allow the Welsh Ministers, with reasons, to direct two or more local planning authorities to produce a joint Local Development Plan.

Conclusions and questions

- Development plan status for NDF and SDPs: strengthens central authority over local authority?
- What does it mean for an LDP to be “in general conformity” with the NDF and an SDP?