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Welsh Assembly Government

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# Technical Advice Note 6



Planning for Sustainable  
Rural Communities

July 2010

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### ANNEX A

The determination procedure: Parts 6 and 7 of Schedule 2 to the GPDO.

### ANNEX B

Procedural arrangements for consultation with the Welsh Assembly Government Department for Rural Affairs and Forestry Commission Wales.







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# Introduction

# 1 Introduction

## 1.1 Introduction

1.1.1 This Technical Advice Note (TAN) should be read in conjunction with *Planning Policy Wales* (PPW)<sup>1</sup>, which sets out the land use planning policies of the Welsh Assembly Government (the Assembly Government). PPW, TAN's and Circulars should be taken into account by planning authorities in the preparation of development plans. They may be material to decisions on individual planning applications and will be taken into account by Welsh Ministers and Planning Inspectors in the determination of called-in planning applications and appeals.

## 1.2 Cancellation

1.2.1 *Planning Guidance (Wales), Technical Advice Note (Wales) 6, Agricultural and Rural Development*, (National Assembly for Wales) June 2000, is hereby cancelled.

## 1.3 Context

1.3.1 PPW sets out the Assembly Government's land use planning policies in respect of supporting sustainable rural communities. TAN 2 *Planning and Affordable Housing*<sup>2</sup> provides planning guidance in relation to this TAN and must be read alongside it. Other relevant TAN's are identified where appropriate.

1.3.2 The Planning and Compulsory Purchase Act 2004 introduced a new system of development plan preparation. Local Development Plans (LDPs) are intended to be more focused and streamlined. One of the key issues that LDPs need to address is how the land use planning system can be used to create sustainable rural communities.

## 1.4 Purpose

1.4.1 The purpose of this TAN is to provide practical guidance on the role of the planning system in supporting the delivery of sustainable rural communities.

1.4.2 The TAN provides guidance on how the planning system can contribute to:

- Sustainable rural economies;
- Sustainable rural housing;
- Sustainable rural services; and
- Sustainable agriculture.

## Reference

<sup>1</sup> [\*Planning Policy Wales \(Edition 3, July 2010\)\*](#)

<sup>2</sup> [\*TAN 2 Planning and Affordable Housing\*](#)







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## Sustainable Rural Communities

## 2. Planning for Sustainable Rural Communities

### 2.1 Introduction

2.1.1 The planning system has a key role to play in supporting the delivery of sustainable rural communities. It can help to ensure that appropriate development takes place in the right place at the right time by making sufficient land available to provide homes and employment opportunities for local people, helping to sustain rural services. Simultaneously, the planning system must respond to the challenges posed by climate change, for example by accommodating the need for renewable energy generation. It must also protect and enhance the natural and historic environment and safeguard the countryside and open spaces. The overall goal for the planning system is to support living and working rural communities in order that they are economically, socially and environmentally sustainable. Planning authorities should seek to strengthen rural communities by helping to ensure that existing residents can work and access services locally using low carbon travel and obtain a higher proportion of their energy needs from local renewable sources.

2.1.2 Planning authorities should assess the needs and priorities of rural communities. They should interrogate published sources of information such as the Wales Rural Observatory<sup>3</sup>, and if necessary commission research to identify rural economic and social conditions and needs. The Local Housing Market Assessment (LHMA), supplemented by community assessments of housing need, provide information on the future requirement for affordable and market housing.

### 2.2 Location of development

2.2.1 Development plans should set out the spatial vision for rural communities. This should be based on a sound understanding of the functional linkages within the area and the potential for improving the sustainability of the existing settlement pattern. Many rural communities can accommodate development, particularly to meet local needs. New development can help to generate wealth to support local services, ensuring that communities are sustainable in the long term. A key question for the planning authority, when identifying sites in the development plan or determining planning applications, is whether the proposed development enhances or decreases the sustainability of the community. In particular, planning authorities should support developments that would help to achieve a better balance between housing and employment, encouraging people to live and work in the same locality.

2.2.2 Development plans should define local need taking into account the social, economic and environmental characteristics of the area<sup>4</sup>. Where possible existing definitions of local need, for example affordable housing to meet local need, should be adopted, or if necessary modified to include other land uses.





2.2.3 Where development proposals are intended to meet local needs, planning authorities should recognise that a site may be acceptable even though it may not be accessible other than by the private car. Development not intended to cater primarily for local needs should continue to be located in market towns, local service centres or clusters of smaller settlements where a sustainable functional linkage can be demonstrated and which are accessible by public transport<sup>5</sup>.

2.2.4 Planning authorities should work closely with rural communities and their representatives when identifying local service centres and clustered settlements. They should also ensure that any sites identified for development are effectively available and likely to be brought forward for development by the owner. This is particularly important in smaller settlements, where a limited number of landowners may control land supply. Sites that have not been developed between the development plan adoption and review dates should be reassessed<sup>6</sup>. In smaller settlements, planning authorities should consider including criteria based policy against which planning applications can be assessed, rather than identifying settlement boundaries.

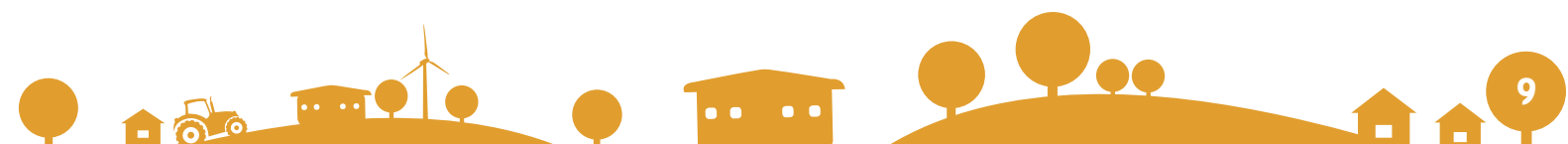
## References

<sup>3</sup> [\*Wales Rural Observatory\*](#)

<sup>4</sup> [\*Planning Policy Wales paragraph 9.2.4\*](#)

<sup>5</sup> [\*Planning Policy Wales paragraphs 4.6.7 and 4.6.8\*](#)

<sup>6</sup> [\*Local Development Plan Wales paragraph 2.16\*](#)





Dulas offices, Dyfi Eco Park, Machynlleth. Courtesy of Dulas Ltd



## Sustainable Rural Economies

## 3. Sustainable Rural Economies

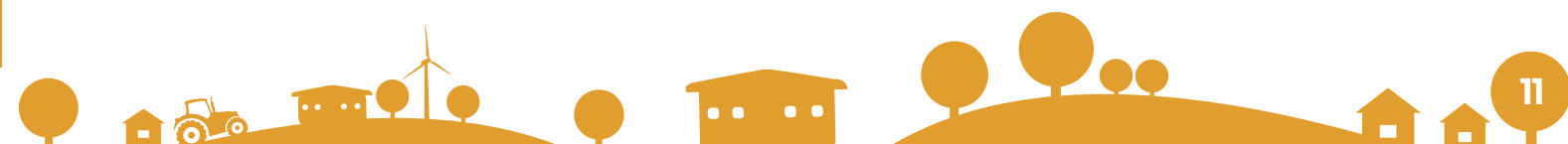
### 3.1 Introduction

3.1.1 Strong rural economies are essential to support sustainable and vibrant rural communities. A strong rural economy can also help to promote social inclusion and provide the financial resources necessary to support local services and maintain attractive and diverse natural environments and landscapes.

3.1.2 Planning authorities should support the diversification of the rural economy as a way to provide local employment opportunities, increase local economic prosperity and minimise the need to travel for employment<sup>7</sup>. The development plan should facilitate diversification of the rural economy by accommodating the needs of both traditional rural industries and new enterprises, whilst minimising impacts on the local community and the environment. The expansion of ICT technology, in particular broadband, into rural areas could help to overcome the barriers associated with distance to market, and access to customers and business services. It could also support diversification into higher paid employment sectors. Planning authorities should support planning applications which are intended to enhance infrastructure networks in rural areas.

3.1.3 Development plans should identify a diverse range of sites suitable for future employment use. Where possible sites should be located within or adjacent to settlements. Planning authorities should consider the need for a rural employment exception site policy that sets out the criteria against which planning applications for employment use on the edge of settlements, on sites which are not specifically allocated in the development plan, will be assessed. They should also promote the expansion of established businesses by setting out in the development plan the criteria against which planning applications for employment uses will be assessed. This should include supporting the expansion of businesses that are currently located in the open countryside provided there are no unacceptable impacts on local amenity. Where employment sites and premises are in short supply planning authorities should resist development proposals that could result in their loss, unless provision of equivalent or greater employment value is made in the locality.

3.1.4 Many businesses in rural areas are small, with self employment being common place<sup>8</sup>. The business is often operated from home, providing a sustainable business model. Planning authorities should encourage the growth of self employment and micro businesses by adopting a supportive approach to home based work. Planning applications for employment premises at home should be supported provided local amenity is not compromised to an unacceptable degree. Development plans should identify new opportunities for home/work developments.



## 3.2 Re-use/adaptation of rural buildings

3.2.1 When assessing planning applications for the re-use or adaptation of a rural building, the primary consideration should be whether the nature and extent of the new use proposed for the building is acceptable in planning terms. It should not normally be necessary to consider whether a building is no longer needed for its present agricultural or other purposes (although in the case of a tenanted agricultural building, the value in planning terms of the existing use should be taken into consideration). In circumstances where planning authorities have reasonable cause to believe that an applicant has attempted to abuse the system by constructing a new farm building with the benefit of permitted development rights, with the intention of early conversion to another use, it will be appropriate to investigate the history of the building to establish whether it was ever used for the purpose for which it was claimed to have been built.

3.2.3 Conversion proposals should respect the landscape and local building styles and materials. If a planning application is submitted for the re-use of a building which the planning authority considers has a significant adverse effect on the landscape in terms of visual amenity, it may be appropriate in connection with any proposed structural changes to impose conditions to secure an improvement in the external appearance of the building.

3.2.4 Planning authorities should consider setting out in development plans their approach to proposals for the re-use of complexes of buildings with a large aggregate floor area, and of individual buildings which are especially large. The economic and social needs of the area and environmental considerations may be particularly relevant to such proposals.

## 3.3 Agricultural buildings

3.3.1 Planning authorities should examine particularly carefully applications for re-use of buildings erected under agricultural permitted development rights. This should alert them to the possibility that the building was in breach of planning control when it was substantially completed, because there was no genuine agricultural justification.

3.3.2 Where there are sound planning reasons for wishing to control the replacement of old farm buildings by new ones, a planning authority may wish to consider attaching, to the grant of planning permission for the use of agricultural buildings for non-agricultural purposes, a condition withdrawing permitted development rights for new farm buildings in respect of that particular agricultural unit or holding<sup>9</sup>. This course will generally only be appropriate where a proliferation of farm buildings could have a seriously detrimental effect on the landscape. Such a condition should be used with great care, and must fairly and reasonably relate to the proposed development. Whilst a restriction on additions to a particular group of farm buildings without specific permission might be reasonable, a restriction which sought to cover the whole of a large holding in connection with the re-use of a single building might well be unreasonable.



3.3.3 If re-use is associated with farm diversification, a planning authority may wish to seek a planning obligation to tie the building to the land, so as to discourage the subsequent fragmentation of the agricultural unit by separate sale of the building<sup>10, 11</sup>.

## 34 Registers of sites and buildings

3.4.1 Planning authorities may wish to compile and promote registers of rural sites and buildings with unimplemented planning permission for business use in cooperation with local bodies.

## 3.5 Residential conversions

3.5.1 The conversion of buildings which are currently in industrial or commercial use to dwellings may have an adverse impact on the local economy<sup>12</sup>. Where residential conversion is part of a scheme for the re-use of a building or complex of buildings for employment purposes, planning authorities should consider whether to impose a condition requiring the works necessary for the establishment of the enterprise to have been completed before the dwelling is occupied, so as to ensure that the scheme materialises. This may be particularly appropriate in the open countryside. They may also wish to consider whether to impose a condition to tie occupation of the dwelling to the operation of the enterprise, in order to prevent it being sold separately without further application to the authority. Alternatively, they may seek a planning obligation to tie the dwelling to the rest of the building re-use.

## 3.6 Holiday conversions

3.6.1 Whilst residential conversions have a minimal impact on the rural economy, conversions for holiday use can contribute more and may reduce pressure to use other houses in the area for holiday use.

## 3.7 Farm diversification

3.7.1 When considering planning applications for farm diversification projects, planning authorities should consider the nature and scale of activity taking a proportionate approach to the availability of public transport and the need for improvements to the local highway network<sup>13 14</sup>. While initial consideration should be given to converting existing buildings for employment use, sensitively located and designed new buildings will also often be appropriate.

3.7.2 Many economic activities can be sustainably located on farms. Small on-farm operations such as food and timber processing and food packing, together with services (e.g. offices, workshop facilities, equipment hire and maintenance), sports and recreation services, and the production of non-food crops and renewable energy, are likely to be appropriate uses.



## 3.8 Farm shops

3.8.1 If a farm shop is used only for the sale of goods produced on that farm, with a minimal quantity of other goods from elsewhere then it is a use which is ancillary to the use as a farm and does not require specific planning permission<sup>15</sup>. However, use as a farm shop selling a *significant* amount of produce from elsewhere is a separate use that requires planning permission.

3.8.2 Planning authorities, when considering planning applications for farm shops, should only limit the broad types of produce sold where an unrestricted retail use would result in a significant adverse effect on a village shop<sup>16</sup>. Where there are no other shops in the locality, planning authorities should support a diversity of retail services, for example a sub post office, to help to meet essential needs of the community.

## 3.9 Farm workshops

3.9.1 Use of a building on an agricultural holding as a workshop for the central maintenance of agricultural equipment does not require planning permission where it serves the needs of that farm business. When that building is used to carry out a significant amount of work for other farms, this constitutes a separate use which requires planning permission.

## 3.10 Farm plans

3.10.1 Farms plans may usefully support applications relating to farm diversification proposals, although they should not be made a requirement of applicants. Such plans can demonstrate how the diversified activity fits into the wider farming picture, and set out its environmental consequences highlighting how any significant adverse effects will be mitigated.

## References

<sup>7</sup> [Planning Policy Wales paragraph 7.3](#)

<sup>8</sup> [Planning Policy Wales paragraphs 7.2.5 and 7.6.3](#)

<sup>9</sup> Welsh Office Circular 35/95, 'The Use of Conditions in Planning Permissions'

<sup>10</sup> [Town and Country Planning Act 1990, section 106](#)

<sup>11</sup> Welsh Office Circular 13/97, 'Planning Obligations'

<sup>12</sup> [Planning Policy Wales paragraphs 7.6.9 - 7.6.10](#)

<sup>13</sup> [Planning Policy Wales paragraph 7.3.3](#)

<sup>14</sup> '[Manual for Streets](#)' (March 2007)

<sup>15</sup> [Planning Policy Wales 10.3.10](#)

<sup>16</sup> Welsh Office Circular 35/95, 'The Use of Conditions in Planning Permissions'



Gerddi'r Mynydd, Crickhowell, by Melin Homes (with Social Housing Grant), in conjunction with the Rural Housing Enabler Project in South Powys



## Sustainable Rural Housing

## 4 Sustainable Rural Housing

### 4.1 Introduction

4.1.1 The Assembly Government's vision for housing is for everyone in Wales to have the opportunity to live in good quality, affordable housing, to be able to choose where they live and decide whether buying or renting is best for them and their families<sup>17</sup>. This vision is applicable to both urban and rural areas.

4.1.2 Development plans should include sufficient land to meet market and affordable housing needs across the planning authority's area<sup>18</sup>. In rural areas, especially where there are environmental constraints or social or cultural considerations, planning authorities may wish to give priority to affordable housing to meet local needs, by identifying those smaller villages and clusters where future housing development will be limited to this category. The requirement for market and general affordable housing need should be accommodated elsewhere in the planning authority's area. Guidance on local housing needs for market housing is provided by PPW (Edition 3 July 2010) paragraph 9.2.4<sup>19</sup>.

### 4.2 Affordable housing

4.2.1 The Assembly Government's policies in respect of affordable housing are set out in PPW and TAN 2 Planning and Affordable Housing. This TAN provides further guidance on how this policy and guidance can be taken forward in rural areas.

4.2.2 Planning authorities should employ all available policy approaches, in an innovative way, to maximise the supply of affordable housing as defined in TAN2<sup>20, 21</sup>. In market towns and larger villages, where housing sites are identified, development plans should set indicative targets and thresholds for the provision of affordable housing. This approach should be supplemented by the inclusion of an affordable housing exception site policy. The planning authority should adopt a proactive approach, working with key local delivery partners, particularly registered social landlords. In areas of housing pressure, it may identify small sites solely for affordable housing, particularly where housing built in the past has not met community needs, for example where homes have been too large or expensive.

4.2.3 In smaller settlements and clusters, planning authorities should proactively engage with the local community and rural housing enablers to bring forward sites for affordable homes to meet local needs. The objective should be to develop a clear vision of how the local need for affordable housing can be met and the sustainability of the community as a whole enhanced. Planning authorities should ensure that the affordable housing provides for genuine local needs, is affordable in perpetuity, well designed and of the right scale. Sites for affordable housing should either be selected as part of the development plan process or be brought forward as affordable housing



exception sites. There should be a high degree of certainty that the identified site will be brought forward for development as affordable housing.

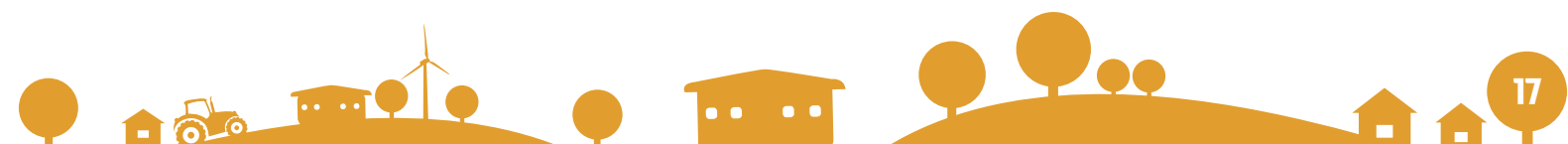
4.2.4 To meet the need for affordable housing, as defined in TAN2, in smaller rural communities planning authorities should adopt a flexible approach to delivery. Whilst some schemes will be delivered by Registered Social Landlords, a broader range of delivery options will be necessary to meet community and individual needs and preferences. Possible methods of delivery include community land trusts, private landlords and unsubsidised affordable housing where the affordable housing is provided by a developer, or directly by the intended occupier. In the case of unsubsidised affordable housing the initial and resale value of the affordable home is capped at an affordable level linked either to a fixed multiple of local incomes, or discount from market value. Whilst the price of the affordable home covers development costs, prices are well below market values. For this model to work planning authorities must ensure that properties constructed are affordable to the local community as a whole, not only the initial occupier, and requests to allow disposal on the open market (except where the mortgagee is in possession) resisted.

### 4.3 Rural enterprise dwellings

4.3.1 One of the few circumstances in which new isolated residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to, their place of work<sup>22</sup>. Whether this is essential in any particular case will depend on the needs of the rural enterprise concerned and not on the personal preference or circumstances of any of the individuals involved. Applications for planning permission for new rural enterprise dwellings should be carefully assessed by the planning authority to ensure that a departure from the usual policy of restricting development in the open countryside can be fully justified by reference to robust supporting evidence.

*Rural enterprise dwellings* include:

- A new dwelling on an established rural enterprise (including farms) where there is a functional need for a full time worker and the business case demonstrates that the employment is likely to remain financially sustainable. (See paragraph 4.4.1).
- A second dwelling on an established farm which is financially sustainable, to facilitate the handover of the management of the farm business to a younger farmer. (See paragraphs 4.5.1 - 4.5.3).
- A second dwelling on an established farm which is financially sustainable, where there is a functional need for a further 0.5 or more of a full time worker and at least 50% of a Grade 2 Standard Worker salary, as defined by the latest version of the Agricultural Wages Order, is obtained from the farm business. (See paragraphs 4.5.1 - 4.5.3).
- A new dwelling on a new rural enterprise where there is a functional need for a full time worker and the criteria in paragraphs 4.5.3 a-e are fully evidenced. (See paragraphs 4.6.1 - 4.6.2).



4.3.2 For the purpose of this technical advice note qualifying rural enterprises comprise land related businesses including agriculture, forestry and other activities that obtain their primary inputs from the site, such as the processing of agricultural, forestry and mineral products together with land management activities and support services (including agricultural contracting), tourism and leisure enterprises. Development plans may include a broader definition of qualifying rural enterprises where this can be justified by specific local evidence.

## 4.4 New dwellings on established rural enterprises

4.4.1 New permanent dwellings should only be allowed to support established rural enterprises providing:

- a. there is a clearly established *existing* functional need; (See paragraph 4.8.1).
- b. the need relates to a *full-time* worker, and does not relate to a part-time requirement; (See paragraph 4.7.1) (See paragraphs 4.5.1 - 4.5.3 for policy exemptions).
- c. the enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so; (See paragraphs 4.10.1 - 4.10.3).
- d. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned; (See paragraphs 4.11.1 - 4.11.2), and
- e. other normal planning requirements, for example siting and access, are satisfied. (See paragraphs 4.12.1 - 4.12.2).

## 4.5 Second dwellings on established farms

4.5.1 The Assembly Government wishes to encourage younger people to manage farm businesses and promote the diversification of established farms. To support this policy objective it may be appropriate to allow a second dwelling on established farms that are financially sustainable where the criteria set out in paragraph 4.4.1 cannot be fully satisfied. The two exceptions to the policy are:

- Where there are secure and legally binding arrangements in place to demonstrate that management of the farm business has been transferred to a person younger than the person currently responsible for management, or, that transfer of management is only conditional upon grant of planning permission for the dwelling. The younger person should demonstrate majority control over the farm business and be the decision maker for the farm business; or,
- There is an existing functional need for an additional 0.5 or more of a full time worker and that person obtains at least 50% of a Grade 2 Standard Worker salary, (as defined by the latest version of the Agricultural Wages Order), from the farm business.

4.5.2 In these circumstances a rural enterprise dwelling may be considered favourably provided the criteria set out above and in paragraph 4.4.1 c - e are met. These special policy exceptions will only apply to the first additional dwelling to be attached to an established farm after this TAN comes into force **and not to subsequent dwellings**.

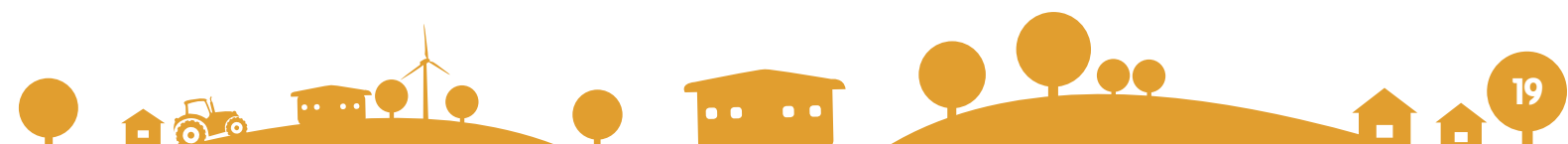
4.5.3 It must also be demonstrated that the management successor or part time worker is critical to the continued success of the farm business, and that the need cannot be met in any other reasonable way, e.g. through the re-organisation of labour responsibilities. In addition, where all the criteria specified above are met the planning authority should ensure that the new dwelling is tied to the holding by way of a legal agreement.

## 4.6 New dwellings on new enterprises

4.6.1 If it is considered that a new dwelling will be essential to support a new rural enterprise, it should satisfy the following criteria:

- a. clear evidence of a firm intention and ability to develop the rural enterprise concerned (significant investment in new buildings and equipment is often a good indication of intentions);
- b. clear evidence that the new enterprise needs to be established at the proposed location and that it cannot be accommodated at another suitable site where a dwelling is likely to be available;
- c. clear evidence that the proposed enterprise has been planned on a sound financial basis;
- d. there is a clearly established functional need and that need relates to a *full-time* worker, and does not relate to a part-time requirement;
- e. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building on the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the workers concerned; and
- f. other normal planning requirements, for example siting and access, are satisfied.

4.6.2 Where the case is not completely proven for a dwelling permission should, not be granted for it, but it may be appropriate for the planning authority to test the evidence by granting permission for temporary accommodation for a limited period. Three years will normally be appropriate to ensure that the circumstances are fully assessed. If such a permission for temporary accommodation is granted, permission for a permanent dwelling should not subsequently be given unless the criteria in paragraphs 4.4.1 or 4.6.1 are met. The planning authority should make clear in planning conditions the period for which the temporary permission is granted and that the temporary dwelling will have to be removed when that period expires. It should also include an informative attached to the planning decision notice stating the requirements that will have to be met if a permanent permission is to be granted. It will be unsatisfactory to grant successive extensions to a temporary permission if that will result in a permission having a total duration of more than three years.



## 4.7 Rural enterprise dwelling appraisals

4.7.1 Planning applications for new permanent and temporary rural enterprise dwellings in the open countryside need to be supported by robust evidence. A **Rural enterprise dwelling appraisal** must accompany planning applications for this type of development and include information sufficient to enable the planning authority to make a full and effective assessment. The appraisal should address the following tests:

- The *functional test* to provide evidence of whether there is a need for a resident worker for the proper functioning of the enterprise. (See paragraph 4.8.1).
- The *time test* to provide evidence of the labour requirement for the worker who is working on the justifying enterprise. (See paragraphs 4.9.1).
- The *financial test* to provide evidence of the economic sustainability of the justifying enterprise and identify the size of dwelling that the enterprise can sustain, ensuring that the size of the dwelling is commensurate with its functional need and financial justification. (See paragraphs 4.10.1 - 4.10.3).
- The *other dwellings test* to identify whether there is an existing dwelling or building suitable for conversion on the enterprise or dwelling in the locality that could meet the identified functional need. (See paragraphs 4.11.1 - 4.11.2).
- *Other normal planning requirements test* to demonstrate that the dwelling is suitably located to fulfil its identified need and to minimise impact on the wider environment. (See paragraphs 4.12.1 - 4.12.2).

4.7.2 In addition, where a new rural enterprise dwelling is being sought to facilitate farm management succession, as set out in paragraph 4.5.1- 4.5.3, details of the secure and legally binding arrangements to demonstrate that management of the farm business has been transferred to a person younger than the person currently responsible for management or, that transfer of management is only conditional upon grant of planning permission for the dwelling should be provided.

4.7.3 Planning authorities may wish to assist applicants by preparing a list of competent persons able to provide independent and unbiased advice. Where planning applications for rural enterprise dwellings are not accompanied by the information identified in paragraph 4.7.1, the planning authority should first seek the necessary information. Should this not be provided they would be entitled to refuse the application on the grounds of lack of proper justification for the proposed dwelling.



## 4.8 Functional test

4.8.1 A *functional test* is necessary to establish whether it is essential, for the proper functioning of the enterprise, for one or more workers to be readily available at most times. It should relate to unexpected situations that might arise, for which workers are needed to be on hand outside of normal working hours for the particular enterprise. Such requirements might arise, for example, if workers are needed to be on hand night and day to deal with an emergency that would threaten the continued viability and existence of the enterprise without immediate attention. Where there are existing dwelling(s) on the enterprise then the need for additional workers to live on the site for the proper functioning of the enterprise must be demonstrated to be essential.

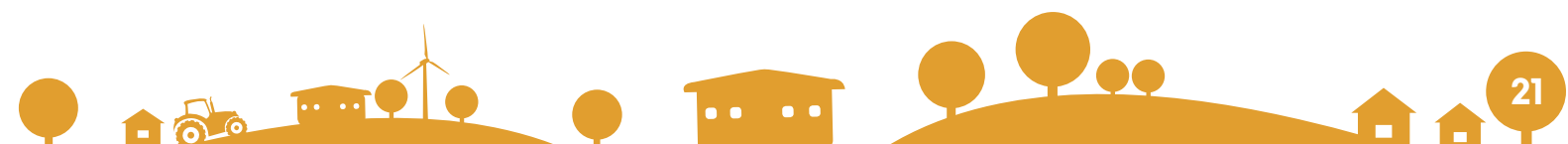
## 4.9 Time test

4.9.1 If a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant. Where there is currently no dwelling associated with the rural enterprise the worker for whom there is a functional need for new accommodation must be a full-time worker. With the exception of second dwellings on established farms, it must not relate to a part-time requirement, or a requirement that does not relate to the enterprise. If this is a second (or further) dwelling, all existing dwellings must also be occupied by full-time workers for whom it is essential that they also remain on site for functional reasons, or by workers and their dependents last employed in a rural enterprise. (See exceptions at paragraphs 4.5.1 - 4.5.3).

## 4.10 Financial test

4.10.1 The rural enterprise and the activity concerned should be financially sound and should have good prospects of remaining economically sustainable for a reasonable period of time, usually at least 5 years.

4.10.2 Evidence of actual or potential economic performance will be required. To assess economic sustainability it will be necessary to show the business has a reasonable prospect of providing a market return for all operators for the amount of management and manual labour inputs, including the job for which the rural enterprise dwelling is being sought, for at least five years from the anticipated completion of the proposed development. This should be assessed on the basis of what is a realistic income for the skills of the operator<sup>23, 24</sup>. A financial test is also necessary to assess the size of dwelling which the enterprise can afford to build and maintain. Dwellings which are unusually large in relation to the needs of the enterprise, or unusually expensive to construct in relation to the income it can sustain in the long-term, should not be permitted. It is the requirements of the enterprise rather than of the owner or occupier which are relevant to determining the size of dwelling that is appropriate.



4.10.3 There may be some cases in which the planning circumstances of the site are such that, if a new permanent dwelling is approved, it will be appropriate for the planning authority to consider making permission subject to a condition removing some of the permitted development rights for development within the curtilage of a dwelling house<sup>25, 26</sup>. For example, proposed extensions could result in a dwelling whose size exceeded what could be justified by the functional requirement, and affect the continued viability of maintaining the property for its intended use given the income which the enterprise can sustain. However, such conditions should only restrict or remove the availability of such specific permitted development rights as are relevant to the circumstances, rather than to be drafted in terms which withdraw all those in a Class.

## 4.11 Other dwelling test

4.11.1 Evidence must be provided to demonstrate that there is no other dwelling(s) or buildings suitable for conversion, which are available to meet the need. If there are existing dwelling(s) on the enterprise it needs to be shown why these cannot be used to meet the needs of the enterprise for a resident worker, and why labour or residential arrangements cannot be re-organised to ensure that the existing accommodation meets the needs of the enterprise without the need for a further dwelling.

4.11.2 In cases where the planning authority is particularly concerned about possible abuse, it may be helpful to investigate the history of the enterprise to establish the recent pattern of use of land and buildings and whether, for example, any dwellings or buildings suitable for conversion to dwellings have recently been sold. Such a sale could constitute evidence of lack of need.

## 4.12 Other planning requirements test

4.12.1 Rural enterprise dwellings should satisfy the usual planning requirements in terms of design, sustainability and access<sup>27</sup>. The siting of the proposed dwelling should relate closely to the activities for which there is a need. In most cases this will mean that the new dwelling should be sited in close proximity to existing buildings and in the case of dwellings for agricultural enterprises, should not be isolated from the farmstead or in locations that could encourage farm fragmentation. Local planning authorities should resist planning applications for rural enterprise dwellings that are prominent in the landscape.

4.12.2 Careful consideration needs to be given to minimising the environmental effects of new rural enterprise dwellings. Opportunities to generate on site power and heat should be explored. Particular attention needs to be given to the avoidance of impacts on ground and surface water, as in most cases, it will not be possible to connect to mains drainage.



## 4.13 Occupancy conditions

4.13.1 Where the need to provide accommodation to enable rural enterprise 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 meeting this need<sup>28</sup>. For this purpose planning permission should be made subject to an occupancy condition as set out below:

The occupancy of the dwelling shall be restricted to those:

- a. solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;
- b. who would be eligible for consideration for affordable housing under the local authority's housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either (a) and (b);
- c. widows, widowers or civil partners of the above and any resident dependants.

4.13.2 It should not be necessary to tie occupation of the dwelling to workers engaged in one specific rural enterprise even though the needs of that enterprise justified the provision of the dwelling. An occupancy condition will, however, ensure that the dwelling is kept available to meet the needs of other rural enterprises in the locality if it is no longer needed by the original business, thus avoiding a proliferation of dwellings in the open countryside.

4.13.3 When granting permission for new rural enterprise dwellings, planning authorities should be aware of the scope, where appropriate, for imposing an occupancy condition not only on the dwelling itself but also on any existing dwellings on the enterprise which are under the control of the applicant, that do not have occupancy conditions and need at the time of the application to be used in connection with the enterprise. This should help to protect the countryside against the risk of pressure for new houses. In appropriate circumstances, authorities may use planning obligations, for example, to tie a rural enterprise dwelling to adjacent buildings or land, to prevent them being sold separately without further application to the authority<sup>29</sup>. (see also 4.5.3)

4.13.4 The broadening of the traditional agricultural occupancy condition to embrace a wider range of rural enterprises significantly increases the number of eligible occupiers for rural enterprise dwellings. Where an appropriate rural enterprise worker cannot be found to occupy the rural enterprise dwelling, eligibility should be extended to persons who would be eligible for consideration for affordable housing under the local authority's housing policies.

4.13.5 Where planning applications are received to lift existing agricultural occupancy conditions or where enforcement action is being taken for non compliance with the condition, the planning authority should consider replacing the existing agricultural occupancy condition with the rural enterprise dwelling condition set out in paragraph 4.13.1. This will often be justified to ensure that



the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing.

## 4.14 Monitoring

4.14.1 To ensure that rural enterprise dwellings are retained for their intended purpose in the long term planning authorities should maintain a register of these properties and undertake monitoring for policy compliance on a regular basis. This should include contacting the occupants of the restricted dwellings to obtain details of length of residence and the nature of their current or last job. To monitor policy implementation planning authorities should provide the Welsh Assembly Government with details of the number and location (by local authority ward) of rural enterprise dwellings granted planning consent during the previous financial year. The information should be submitted by the end of May each year.

## 4.15 One Planet Development

4.15.1 The Sustainable Development Scheme, "One Wales: One Planet" includes an objective that within the lifetime of a generation, Wales should use only its fair share of the earth's resources, and our ecological footprint be reduced to the global average availability of resources - 1.88 global hectares per person in 2003. One Planet Developments take forward Low Impact Development (LID) principles in the Welsh context. One Planet Development is development that through its low impact either enhances or does not significantly diminish environmental quality. One Planet Development is potentially an exemplar type of sustainable development. One Planet Developments should initially achieve an ecological footprint of 2.4 global hectares per person or less in terms of consumption and demonstrate clear potential to move towards 1.88 global hectare target over time. They should also be zero carbon in both construction and use.

4.15.2 One Planet Developments may take a number of forms. They can either be single homes, co-operative communities or larger settlements. They may be located within or adjacent to existing settlements, or be situated in the open countryside. Where One Planet Developments involve members of more than one family, the proposal should be managed and controlled by a trust, co-operative or other similar mechanism in which the occupiers have an interest. Land based One Planet Developments located in the open countryside should, over a reasonable length of time (no more than 5 years), provide for the minimum needs of the inhabitants' in terms of income, food, energy and waste assimilation. Where this cannot be demonstrated, they should be considered against policies which seek to control development in the open countryside.



*Cob Cottage of Cae Mabon, Llanberis. Courtesy of E Maddern*



## 4.16 Management plans

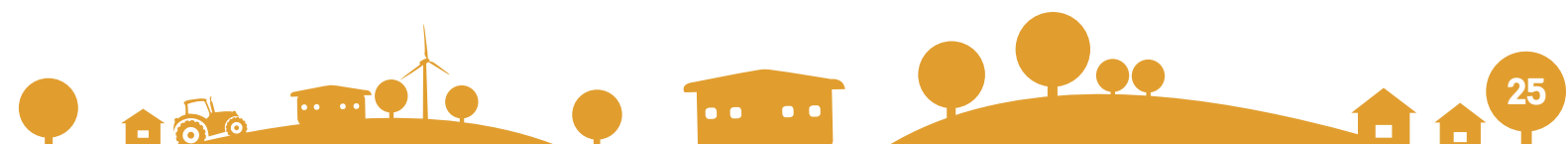
4.16.1 Planning applications for **land based One Planet Developments located in the open countryside** need to be supported by robust evidence. A management plan, produced by a competent person(s), must accompany planning applications for this type of development. The management plan should set out the objectives of the proposal, timetable for development of the site and timescale for review. It should be used as the basis of a legal agreement relating to the occupation of the site, should planning consent be granted. The management plan should cover the following areas:

- *Business and Improvement plan* to identify whether there is a need to live on the site and establish the level of the inhabitants' requirements in terms of income, food energy and waste assimilation that can be obtained directly from the site (See paragraph 4.17.1);
- *Ecological footprint analysis* of the development (See paragraph 4.18.1);
- *Carbon analysis* of the development (See paragraphs 4.19.1 - 4.19.2);
- *Biodiversity and landscape assessment* (See paragraph 4.20.1);
- *Community impact assessment* to identify potential impacts on the host community (both positive and negative) and provide a basis to identify and implement any mitigation measures that may be necessary (See paragraph 4.21.1 ), and;
- *Transport assessment and travel plan* to identify the transport needs of the inhabitants and propose sustainable travel solutions. (See paragraph 4.22.1).

4.16.2 Where planning applications for One Planet Developments located in the open countryside are not accompanied by the information identified in paragraph 4.16.1, the planning authority should first seek the necessary information from the applicant. Should this not be provided they would be entitled to refuse the application on the grounds of lack of proper justification for the scheme.

## 4.17 Business and improvement plan

4.17.1 Planning applications for One Planet Developments in the open countryside must justify the need to live on the site and quantify how the inhabitants' requirements in terms of income, food, energy and waste assimilation can be obtained directly from the site. The land use activities proposed must be capable of supporting the needs of the occupants, even on a low income or subsistence basis, within a reasonable period of time (no more than 5 years). It will also be necessary to identify a clear relationship between the use of the land and projects proposed and the number of occupants to be sustained on the site in terms of the need for them to work the land or ensure the smooth running of the venture and the return that is gained. The business plan should include a statement that the development will be the sole residence for the proposed occupants.



## 4.18 Ecological footprint analysis

4.18.1 Ecological footprint analysis measures the impact of human activity upon the environment. The footprint provides a notional figure for the land area required to support an individual, a family or a community in terms of food, resources, energy, waste assimilation, and greenhouse gases mitigation. In 2006 the ecological footprint for each Welsh citizen was 4.41 global hectares with a long term target to reduce the ecological footprint to the global average availability of resources - 1.88 global hectares per person within a generation. One Planet Developments should initially achieve an ecological footprint of 2.4 global hectares per person or less in terms of consumption and demonstrate clear potential to move towards 1.88 global hectare target over time.

## 4.19 Zero carbon analysis

4.19.1 One Planet Developments should be exemplars of the Welsh Assembly Government's zero carbon aspiration and achieve zero carbon status in terms of the construction and use of the development<sup>30</sup>. There is also the potential to have wider community carbon reduction benefits through the export of any surplus electricity to the grid.

4.19.2 Planning applications should be accompanied by supporting information confirming that the development will be zero carbon in construction and use. Plans should be monitored as part of the annual monitoring report prepared by the applicants.

## 4.20 Biodiversity and landscape assessment

4.20.1 A baseline assessment of biodiversity and landscape character should be undertaken and a management plan to enhance features of importance prepared.

## 4.21 Community impact assessment

4.21.1 A community impact assessment should be undertaken to assess any potential impacts (positive and negative) on the host community and provide a basis to identify and implement any mitigation measures that may be necessary.

## 4.22 Transport assessment and travel plans

4.22.1 Planning applications should be accompanied by an assessment of the traffic generated from the use of the site by its residents and visitors. The travel plan accompanying the planning application should clearly identify a preference for low or zero carbon modes of transport including walking, cycling and car sharing schemes. Where proposals are distant from larger towns and villages they should be located near public transport routes to minimise use of the private car.

## 4.23 Planning obligations and conditions

4.23.1 Where planning consent is granted for One Planet Developments it will be necessary to tie the management plan directly to a planning condition or S106 agreement. This will provide control over all of the activities agreed in the permission. A S106 agreement should also be used to tie the dwellings to the land which justified the grant of planning consent. Where there is a change in ownership of the One Planet Development or any individual holding within larger schemes, a new management plan should be submitted to the planning authority for approval.

4.23.2 An annual monitoring report should be submitted to the planning authority to evidence compliance with the management plan by identifying activities carried out during the previous twelve months. Failure to meet the terms of the management plan could result in enforcement proceedings in respect of a breach of condition subject to which planning permission was granted.

## References

- 17 [\*Planning Policy Wales paragraph 9.1.1\*](#)
- 18 [\*Planning Policy Wales paragraph 9.2.18\*](#)
- 19 [\*Planning Policy Wales paragraph 9.2.4\*](#)
- 20 [\*Planning Policy Wales paragraph 9.2.4\*](#)
- 21 [\*Technical Advice Note 2 - Planning and Affordable Housing \(June 2006\)\*](#)
- 22 [\*Planning Policy Wales paragraph 9.2.22\*](#)
- 23 [\*The Agricultural Wages Order\*](#)
- 24 [\*Agricultural Wages Board for England and Wales\*](#)
- 25 [\*General Permitted Development Order \(GPDO\), Schedule 2, Part 1\*](#)
- 26 Annex to Welsh Office Circular 35/95, 'The Use of Conditions in Planning Permissions', paragraphs 6-60
- 27 [\*Technical Advice Note 12 Design \(2009\)\*](#)
- 28 Annex to Welsh Office Circular 35/95, 'The Use of Conditions in Planning Permissions', paragraphs 102-104
- 29 Welsh Office Circular 13/97, 'Planning Obligations'





Llanddewi Brevi, Ceridigion © Crown copyright (2010) Visit Wales



## Sustainable Rural Services



## 5 Sustainable Rural Services

### 5.1 Introduction

5.1.1 To ensure that communities are sustainable in the long term rural residents need to have reasonable access to essential local services. When preparing development plans planning authorities should obtain information on the availability of services across the area. This will help to identify the most sustainable locations for development intended to meet general need and locations where a more proactive approach should be taken to meet essential community service requirements.

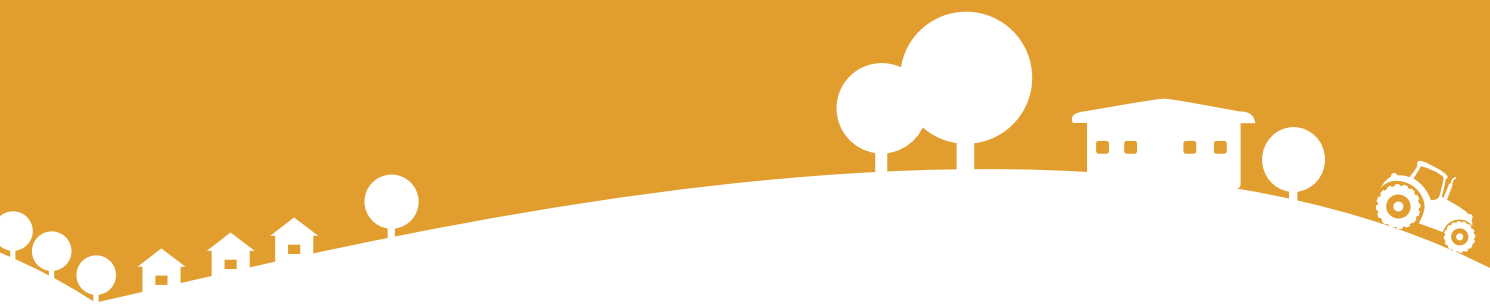
5.1.2 Development plans should facilitate the provision of services as an essential part of new developments where they are of a sufficient scale. They should also seek to broaden the range of services available in local service centres to meet the needs of the catchment. Outside identified service centres planning authorities should support the provision of local facilities, especially where they would be of benefit to rural residents distant from existing facilities. Multi-purpose use may be an appropriate way to ensure service viability, particularly in more remote areas.

5.1.3 Planning authorities should adopt a positive approach to planning proposals designed to improve the viability, accessibility or community value of existing services and facilities, including village shops and post offices, rural petrol stations, village and church halls and rural public houses that play an important role in sustaining rural communities. They should support the retention and expansion of these local facilities and should set out in the development plan the criteria they will apply when considering planning applications that will result in the loss of important village services.





Farm near Cwmystwyth, Elan Valley, Powys © Crown copyright (2010) Visit Wales



# Sustainable Agriculture

## 6. Sustainable Agriculture

### 6.1 Introduction

6.1.1 The Welsh Assembly Government's objective is a sustainable and profitable future for farming families and businesses through the production and processing of farm products while safeguarding the environment, animal health and welfare, adapting to climate change and mitigating its impacts, while contributing to the vitality and prosperity of our rural communities. The planning system can play an important part in supporting the future sustainability of agriculture.

### 6.2 Development involving agricultural land

6.2.1 When preparing development plans and considering planning applications, planning authorities should consider the quality of agricultural land and other agricultural factors and seek to minimise any adverse affects on the environment.

6.2.2 Planning authorities should bear in mind that, once land is built on, the restoration of semi-natural and natural habitats and landscape features is rarely possible and usually expensive, and archaeological and historic features cannot be replaced. Also, once agricultural land is developed, even for 'soft' uses such as golf courses, its return to agriculture as best and most versatile agricultural land is seldom practicable.

6.2.3 Agricultural land is classified by grades according to the extent to which its physical or chemical characteristics impose long term limitations on agricultural use for food production. There are 5 grades of land numbered 1 to 5, with grade 3 divided into two sub-grades. The best and most versatile land falls into grades 1, 2 and sub-grade 3a and is the most flexible, productive and efficient in response to inputs.

6.2.4 The Agricultural Land Classification (ALC) map for Wales is published at a scale of 1:250,000. This map is produced for use in strategic planning and provides only a generalised indication of the distribution of land quality. The map is not suitable for use in evaluating individual sites. In such cases a resurvey at a larger scale is necessary to obtain a definitive grade.

6.2.5 The nature of other development and its proximity to farms can influence the type of farming and the extent to which inherent land quality can be exploited. Certain locations may have agricultural advantages such as accessibility to markets, processing plant and certain industries associated with agriculture. Farms with development close to them tend to suffer from trespass and other forms of disturbance which may affect the efficiency and upkeep of holdings. It may be possible to reduce any detrimental effects of development by locating compatible uses adjacent to farm land, by landscaping or by detailed provision of amenity space and green corridors in the layout of residential development.



6.2.6 Farms vary considerably in size, type of farm business and layout. The loss of part of a holding can have important implications for the remainder. The effect of severance and fragmentation upon the farm and its structure may be relevant.

6.2.7 The efficiency of farms can be affected by the condition and extent of buildings and other fixed equipment. The full use of these assets could be impaired by the loss of specific sites to development and there may be proposals to improve buildings and equipment which are tied to investment decisions already taken. The effect on the capital investment of a farm should, therefore, be taken into account as part of the consideration of the agricultural case.

6.2.8 Where irrigation is practised and water supplies are adequate and reliable, the productive capacity of agricultural land and its importance relative to non-irrigated land of the same grade will often be significantly increased.

6.2.9 Developments may have further consequences for agriculture. For example, it may be necessary to redesign land drainage systems disturbed by development and, where major development is involved, the drainage of surface water may require water courses to be re-aligned or improved to accept the increased flow. Freshwater and marine fisheries may be affected by discharges from industrial and other forms of development.

### 6.3 Permitted development rights for agricultural holdings

6.3.1 Permitted development rights are granted for a range of agricultural buildings and operations<sup>31, 32</sup>. Rights to erect, extend or alter such buildings, and for excavations and engineering operations, are available to agricultural units of at least 5 hectares under Class A of GPDO. More limited rights, including extensions and alterations adding not more than 10% to the content of the original building, are available to smaller units of not less than 0.4 hectare under Class B of GPDO (for details see Annex A).

### 6.4 Permitted development rights for forestry

6.4.1 Permitted development rights are granted to erect, extend or alter a forestry building, to form, alter or maintain private ways, and for other operations (excluding engineering and mining) subject to conditions<sup>33</sup>. Development is not permitted for dwellings, or development exceeding 3 metres in height within 3 kilometres of an aerodrome, or within 25 metres of a trunk or classified road.



## 6.5 The determination procedure

6.5.1 In certain cases, permitted development rights for development associated with agricultural uses of land, on units of 5 hectares or more, and forestry uses of land cannot be exercised unless the farmer or other developer has applied to the planning authority for a determination as to whether prior approval will be required for certain details<sup>34</sup> (for details of this procedure, which can, in more limited circumstances, also apply to smaller agriculture units of not less than 0.4 hectare, see Annex B).

## 6.6 Livestock units and slurry

6.6.1 Generally, permitted development rights do not extend to buildings to be used for the accommodation of livestock, or to associated structures such as slurry tanks and lagoons, when these are to be built within 400 metres of the curtilage of a 'protected building'. This restriction applies to new buildings and structures, to those created by the conversion of other farm buildings and structures erected under Part 6 of the GPDO since 2 January 1992, and to those extended or altered under Class B.

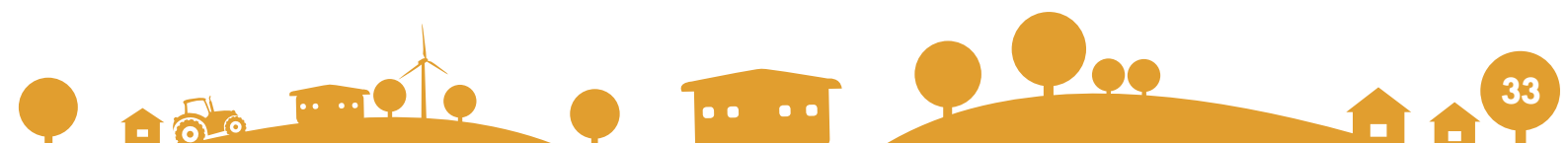
6.6.2 The term protected building includes most residential and other permanent buildings such as schools, hospitals and offices that are normally occupied by people. It excludes any building on the same agricultural unit, any farm dwelling or other farm building on another agricultural unit. The 400 metres will usually be measured from the boundary of the land on which the protected building stands, for example, from the end of the garden of a house.

6.6.3 To minimise the potential for future conflict between neighbouring land uses, planning authorities should exercise particular care when considering planning applications for houses or other new protected buildings within 400 metres of established livestock units. It is important also for planning authorities to keep incompatible development away from other polluting or potentially polluting uses.

6.6.4 Regulations set minimum standards for new, substantially reconstructed or enlarged silage, slurry or fuel oil facilities<sup>35</sup>. The Environment Agency is empowered to serve notice requiring action to improve existing installations when it considers that there is a significant risk of pollution. These Regulations form an important part of the Assembly's commitment to reduce agricultural pollution of rivers. Planning authorities are therefore encouraged to consider sympathetically development proposals aimed at meeting the requirements of these Regulations.

## 6.7 Central grain stores

6.7.1 In view of their potentially obtrusive appearance, central grain stores should be designed and located to minimise their effect on the landscape. In considering applications for stores, planning authorities should have regard to the advantages of such stores and the demands



placed on farmers of changing technology, the extent to which they blend with their surroundings and to traffic and other relevant planning considerations. In some instances it may be possible to locate new central grain stores in industrial areas on the edge of settlements rather than in open countryside.

## 6.8 Glasshouse construction

6.8.1 Commercial glasshouses normally exceed the area for which permitted development rights are available. Glasshouses can have a significant environmental impact and, wherever practicable, new ones should be sited adjacent or close to existing ones. It is important however that the horticultural industry is not held back by over-restrictive approaches to developments which could be sited without detriment to the surrounding area.

## 6.9 Temporary structures

6.9.1 The Courts have held that some temporary structures used for agriculture are not buildings in planning terms but are a use of land and so outside the general scope of planning control<sup>36</sup>. Temporary structures, such as 'pig arks' moveable poultry shelters and polytunnels, may not therefore be buildings for planning purposes. The tests to be applied in determining whether they are buildings were discussed in the case of *R. (on the application of Hall Hunter Partnership) v First Secretary of State* (2006). The status of particular structures is ultimately a matter for the Courts to decide on the facts of each case. In case of doubt, an application may be made to the planning authority for a certificate of lawfulness of either an existing or proposed use or development.

## 6.10 Reservoirs on farms

6.10.1 Permitted development rights extend to structures and excavations which are reasonably necessary for the purposes of agriculture, within an agricultural unit of 5 hectares or more<sup>37</sup>. A reservoir for irrigating farmland would generally be regarded as reasonably necessary for this purpose. The classification of an on-farm reservoir as an 'excavation' or a 'building, structure or works', will reflect the physical form of the development.

6.10.2 Where a planning application is required, planning authorities should consider proposals for on-farm reservoirs positively. To help consideration of such proposals, planning authorities in areas where there is high demand for water resources may wish to set out in supplementary guidance the information which should accompany applications for farm reservoirs and the criteria on which such applications will be assessed.



## 6.11 Development involving horses

6.11.1 The definition of agriculture includes “the breeding and keeping of livestock” and “the use of land as grazing land”. “Livestock” has been held to relate only to livestock bred or kept for agricultural purposes<sup>38</sup>. Land can be said to be used for “grazing” if horses are turned on to it with a view to feeding them from it, but not if they are kept on it for some other purpose (such as exercise or recreation), when grazing is seen as completely incidental and inevitable. A planning application is normally required for the use of land for keeping horses and for equestrian activities, unless they are kept as “livestock” or the land is used for “grazing”.

6.11.2 Buildings used for housing horses used in farming qualify as agricultural permitted development, and so benefit from permitted development rights<sup>39</sup>. Stables or loose boxes erected within the curtilage of a dwelling house (i.e. in a large garden but not a separate paddock) for horses kept as “pet animals for the domestic needs or personal enjoyment of the dwelling house” also enjoy permitted development rights<sup>40</sup>. Unless they qualify as permitted development, a planning application is normally required for buildings to house horses.

## References

<sup>30</sup> [\*Technical Advice Note \(TAN\) 22 - Sustainable Buildings\*](#)

<sup>31</sup> [\*The Town and Country Planning \(General Permitted Development\) Order 1995 \(GPDO\) SI No 1995/418, Schedule 2, Part 6\*](#)

<sup>32</sup> *Farmers Guide to the Planning System*, Welsh Assembly Government, 2003

<sup>33</sup> [\*General Permitted Development Order \(GPDO\), Schedule 2, Part 7\*](#)

<sup>34</sup> [\*General Permitted Development Order \(GPDO\), Schedule 2, Part 6 and 7\*](#)

<sup>35</sup> [\*The Control of pollution \(Silage, Slurry and Agricultural Fuel Oil\) Regulations 1991, SI No 1991/324, as amended\*](#)

<sup>36</sup> [\*Town and Country Planning Act 1990, Sections 191 or 192\*](#)

<sup>37</sup> [\*General Permitted Development Order \(GPDO\), Schedule 2, Part 6\*](#)

<sup>38</sup> [\*Town and Country Planning Act 1990, Section 336\*](#)

<sup>39</sup> [\*General Permitted Development Order \(GPDO\), Schedule 2, Part 6\*](#)

<sup>40</sup> [\*General Permitted Development Order \(GPDO\), Schedule 2, Part 1\*](#)



## The Determination Procedure: Parts 6 and 7 of Schedule 2 to the GPDO

### Introduction

A1. The planning authority has 28 days in which to decide whether or not it is necessary for it to give its prior approval to those details of development involving new agricultural and forestry buildings, significant extensions and alterations, agricultural and forestry roads, certain excavations or waste deposits, and the placing or assembly of fish tanks in any waters. In National Parks and certain areas adjoining the Snowdonia National Park (Article 1(6) land), *all* extensions and alterations to buildings are subject to this procedure and the placing or assembly of fish tanks in any waters requires a specific planning application to be made to the planning authority.

A2. The types of development on smaller agricultural units of less than 5 hectares (but no smaller than 0.4 hectare) for which the GPDO also grants planning permission are not subject to the determination procedure, except on Article 1(6) land, where the procedure applies to extensions and alterations of buildings and the provision, re-arrangement or replacement of roads.

A3. Planning authorities should use the determination procedure to verify that the intended development does benefit from permitted development rights, and does not require a planning application. There is no scope to extend the 28 day determination period, nor should the discretionary second stage concerning the approval of certain details be triggered for irrelevant reasons. A planning authority will therefore need to take a view during the initial stage as to whether Part 6 rights apply.

A4. Provided all the GPDO requirements are met, the principle of whether the development should be permitted is not for consideration. Only in cases where the authority considers that a specific proposal is likely to have a significant impact on its surroundings would the Welsh Assembly Government consider it necessary for the authority to require the formal submission of details for approval. By no means all the development proposals notified to authorities under the GPDO will have such an impact.

### Handling

A5. The 28 day determination period runs from the date of receipt of the written description of the proposed development by the planning authority. If the planning authority gives notice that prior approval is required, it will then have the normal 8 week period from the receipt of the submitted details to issue its decision, or such longer period as may be agreed in writing (see Article 21 of



the GDPO). Development undertaken in breach of the conditions imposed by the GPDO or by the planning authority may be the subject of enforcement action.

A6. There will often be scope for informal negotiations with the developer, as an alternative or preliminary to requiring a formal submission of details. Developers for their part may find it useful to provide more than the minimum information required by the GPDO when informing authorities of their proposals, if this is readily available. For example, a sketch showing the proposed elevation of a building may clarify the effect of the proposal. If, as a result of discussions, the developer's original proposal is modified by agreement, he or she is not required to re-submit it formally to the authority in order to comply with the terms of the GPDO condition, but the authority should give its written approval to the modification to make it clear that the developer has authority to proceed with the modified proposals.

## Scope of controls

A7. When details are submitted for approval under the terms of the GPDO, the objective should be to consider the effect of the development upon the landscape in terms of visual amenity, as well as the desirability of preserving ancient monuments and their settings, archaeological sites, listed buildings and their settings, and sites of recognised nature conservation value. Details should be regarded in much the same light as applications for approval of reserved matters following the grant of outline planning permission. In operating these controls, planning authorities should always have full regard to the operational needs of the agricultural and forestry industries and to the need to avoid imposing any unnecessary or excessively costly requirements. Long term conservation objectives will often be served best by ensuring that the rural economy, including farming and forestry which are prominent in the rural landscape, is able to function successfully.

A8. Subject to the normal criteria governing the use of conditions in planning permission, conditions may be imposed when approval is given. Developers required to submit details for approval will have the right of appeal to Welsh Ministers if approval is refused or is granted subject to conditions with which they disagree, or if notice of a decision on the details submitted is not given within the period for a decision (normally 8 weeks). There is no right of appeal against the decision of a planning authority to require approval of details. No compensation is payable under Section 108 of the Town and Country Planning Act 1990 if approval of submitted details is withheld by the planning authority.

A9. Special considerations apply to forestry roads. Usually a new road will be to assist new planting or timber harvesting, which in nearly all cases are the subject of a Forestry Commission Wales Grant Scheme under Better Woodlands for Wales or felling licence application to Forestry Commission Wales. These applications are subject to consultation with local authorities and other bodies, in accordance with revised procedures that came into effect in August 1996. Forestry Commission Wales, which acts as the Welsh Assembly Government's Department for Forestry, will be pleased to advise further. Applicants should set out any road proposals in their



grant or felling licence application. If there is an objection from a local authority which cannot be resolved, Forestry Commission Wales will not approve that part of the application without reference to the Welsh Assembly Government Minister with responsibility for Forestry. Landowners have an obligation to undertake environmental assessments of potentially damaging operations, and Forestry Commission Wales can require an Environmental Statement. These procedures ensure that the environmental acceptability of new roads and the siting and landscaping of the woodland are considered together. Forestry Commission Wales has produced guidance on the design of forest roads. Planning authorities should not exercise their right to call for full details of roads which had been included in a Plan of Operations approved by Forestry Commission Wales after consultation with the local authority. Appeals against refusal of permission for details in such circumstances are likely to be allowed.

## Siting, design and appearance (role of planning authority)

A10. Planning authorities may concern themselves with:

- the siting, design and external appearance of a proposed new agricultural or forestry building and its relationship to its surroundings;
- the siting and means of construction of roads;
- the siting of those excavations or waste deposits which individually or collectively exceed 0.5 hectare within the unit; and
- the siting and appearance of fish tanks (cages).

A11. Specific regulation making powers are conferred by section 1 of the Building Act 1984 (the enabling power for Building Regulations) covering, in particular, i) the suitability, durability, use and re-use of materials, ii) measures affecting the use of fuel or power and iii) the efficient use of water. It is the 1984 Act (and any provision made by Building Regulations) which provide the main legislative power for these purposes rather than town and country planning legislation. Part 6 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 confers a discretionary power on planning authorities to require that details of the **siting, design** and **external appearance** of a proposed agricultural building be submitted to them for approval. (The “external appearance” of an agricultural building may include consideration of the materials to be used on the building’s exterior). Appeals against refusal of permission for details based solely on the means of construction to be used in these buildings are likely to be allowed in such circumstances.

A12. To ensure consistency of decision taking, and to help applicants, planning authorities should consider producing guidelines on the principles they would take into account when details of design, materials and siting are being prepared for such buildings. The guidelines should identify where possible situations or circumstances in which authorities would normally require the submission of details. They should allow a flexible approach, and note that the combination of siting, good design and colour can particularly influence the degree of intrusion. Guidelines may include information on local building design. Traditional building styles may be important in devising local design criteria for modern buildings.

A13. In preparing guidelines, authorities should consult those with an interest, for example local farming and conservation interests and the Welsh Assembly Government Rural Affairs Department through Technical Services Division. Continuing liaison with building designers and contractors will be important. Planning authorities' attention is drawn to British Standard BS 5502 'Buildings and Structures for Agriculture', Part 20 Code of Practice for general design considerations, 1990, which gives information on matters referred to in this guidance, together with reference to choice of colours and their use.

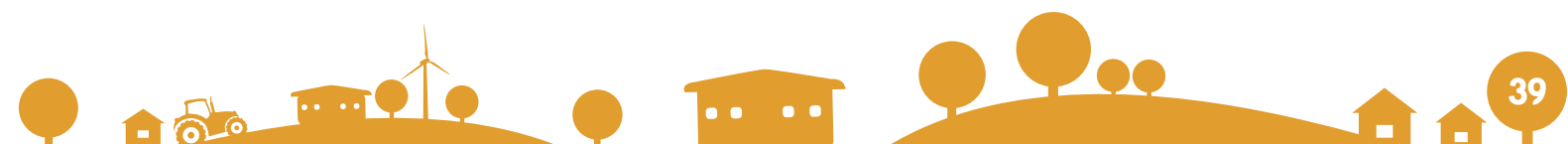
## Design, appearance and siting (advice for farmers and developers)

A14. The siting of a new agricultural or forestry building, road, excavation or waste deposit, or fish tank can have a considerable impact on the surrounding landscape. Developments should be assimilated into the landscape without compromising the functions they are intended to serve. New buildings should normally form part of a group rather than stand in isolation, and relate to existing buildings in size and colour. However, new buildings of modern design may sometimes best be separated from a group of traditional buildings to avoid visual conflict. Sites on skylines should be avoided. To reduce visual impact, buildings should be blended into the landscape or, on sloping sites, set into the slope if that can be achieved without disproportionate cost.

A15. A well sited building or road may benefit from some additional screening, but the visual impact of a poorly sited building cannot easily be reduced. In some cases minor repositioning or realignment can considerably improve proposals. In others, a different site might be preferable if this can be achieved without imposing undue operational or constructional difficulties. The options for siting of agricultural buildings and private ways will be influenced by their functional relationship to other buildings and services, so that alternatives may be limited. Where constructional problems emerge after proposals have been notified or approved, authorities should be flexible in their response to requests for approval of departures from the original proposals.

A16. The siting of new agricultural or forestry buildings adjacent (but not too close) to existing woods may help to assimilate them into the landscape. Suitable materials and suitable woodland management will be required to maintain this effect. Elsewhere judicious tree planting and external works may enhance new buildings. The aim should not be to hide a building from sight, but rather to soften a hard outline, break up a prominent silhouette, minimize its impact on the landscape and help anchor a new building to the surrounding landscape. Any new planting should reflect the existing vegetation type, or be part of an approved Better Woodlands for Wales Grant Scheme application.

A17. Within a site, the orientation of an individual new agricultural or forestry building can often influence energy demand for heating, cooling and ventilation purposes.



A18. The choice of design and materials, and the relationships of texture and colour to existing development, local traditions, and the landscape, can be important considerations for both agricultural/forestry buildings and roads.

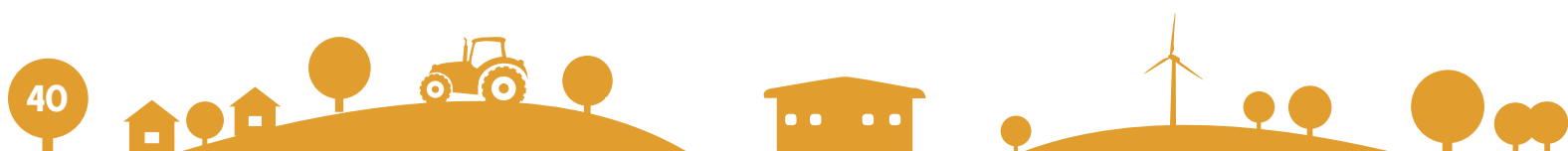
A19. Principles of good design are set in Planning Policy Wales (paragraph 4.10) and further elaborated in Technical Advice Note 12 "Design" (2009).

A20. A proposed building's energy, heating and cooling costs can be influenced by the adoption from the outset of an energy efficient design. Opportunities will also arise to increase water efficiency, enhance biodiversity and to use sustainable materials (low environmental impact, responsibly sourced, reclaimed or recycled and local materials) and those which are climate proofed. Free and impartial advice is available from the Energy Saving Trust's advice centre (0800 512 012). Information is also available on their website ([www.energysavingtrust.org.uk](http://www.energysavingtrust.org.uk)) and that of the Energy Saving Wales portal ([www.energysavingwales.org.uk](http://www.energysavingwales.org.uk)).

A21. The colours chosen should be compatible with the rural setting, not to camouflage the building but to allow it to relate to existing buildings. Careful choice of colour reduces the apparent scale of a large agricultural building (for example, if the roof of a building is coloured darker than the walls, its visual impact on its surroundings is reduced). The use of reflective materials should be avoided. It will normally be appropriate to use traditional or sympathetic materials for developments taking place in the setting of a listed building or in a conservation area.

A22. Alterations/conversions and extensions should not pose as much difficulty as new buildings, but similar considerations concerning design, appearance and positioning should be taken into account. Materials similar to the original should normally be used, but where there would be no adverse impact on the landscape, there may be cases when the use of sustainable materials might be employed.

A23. The scale, form and siting of new agricultural buildings are usually influenced by the operational needs of the enterprise, the standardisation of modern agricultural buildings and economic considerations. However it should be possible to reconcile proposals for development with the need to conserve and wherever possible enhance the landscape.



## Procedural Arrangements for Consultation with Welsh Assembly Government (WAG) Department for Rural Affairs (DRA) and Forestry Commission Wales

### Consultation on development plans

B1. Planning authorities preparing development plans should consult the Planning Division WAG who will co-ordinate consultation within WAG. LPA's are advised to contact Sustainability and Environmental Evidence Division SEED (formerly Technical Services Division, TSD) within DRA for information on the quality of agricultural land within the plan area and, in particular, the location of the best and most versatile agricultural land.

### Consultation with DRA: planning applications for non-agricultural development

B2. There may be proposals for development for non-agricultural purposes requiring significant amounts of the best and most versatile agricultural land. In such cases, DRA has the statutory right to be consulted, so that planning authorities are made fully aware of the agricultural implications. Article 10(1), paragraph (w) of the Table to the Town and Country Planning (General Development Procedure) Order 1995 (GDPO) (S.I. No 1995/419), requires planning authorities to consult WAG before granting any planning permission which is not in accordance with the development plan, and would involve the loss of 20 hectares or more of grades 1, 2 or 3a agricultural land or a loss which is less than 20 hectares but is likely to lead to further losses amounting cumulatively to 20 hectares or more. If the planning authority is uncertain whether the land involved is grades 1, 2 or 3a they may seek advice from SEED on its classification.

B3. Under Schedule 5 of the Town and Country Planning Act 1990 (as amended), SEED within DRA will be consulted, irrespective of the size of the site or the land quality, on aftercare conditions where land is to be returned to agricultural use following planning permission involving mineral working, the depositing of mineral waste or the depositing of any type of refuse or waste material. The statutory requirement to consult DRA on agricultural aftercare does not apply to planning conditions governing the restoration of the land by the use of soil materials. However, it is clear that the achievement of good standards in the aftercare period must, in part, depend on appropriate (and enforced) planning conditions covering, for example, the stripping and movement of soils and their restoration on appropriate contoured ground after minerals extraction. DRA through SEED will therefore continue to comment or advise on restoration conditions. Planning authorities will need to receive such comments concurrently with the advice under the statutory requirement.





## Turf Stripping

B4. Planning authorities may wish to consult with SEED about commercial cutting or stripping of turf from agricultural land, where this is judged to be a non-agricultural activity requiring planning permission. Most turf stripping is carried out on sites below the 20 hectare threshold at which DRA must be consulted (see paragraph C2 above). The long-term agricultural potential of land may however be significantly reduced if substantial amounts of soil are removed. SEED can advise on appropriate technical conditions.

## Non-statutory consultation with DRA: Planning applications for non-agricultural development

B5. There may be other planning applications with significant agricultural implications which come to the attention of DRA but which are not subject to the statutory requirements described in paragraphs C2 and C 3 above. DRA may on occasion wish to take the initiative in commenting to the planning authority on applications of this type.

B6. In circumstances which do not require the specific consultations with DRA outlined in paragraph C2 above, it is expected that planning authorities should be able normally to determine applications for development on agricultural land in the light of evidence before them. Where they do not feel able to determine the application satisfactorily, it is open to them to seek more information or technical advice (e.g. on agricultural land quality implications) either from SEED or from other agricultural consultants. Such consultations should be confined to matters of technical detail and not relate to the merits or otherwise of the application, on which it is for the planning authority to take a view.

B7. When a planning application is submitted for hard<sup>1</sup> development on former agricultural land grades 1, 2 or 3a, which has previously been developed for a use which would allow the land to be returned to agriculture, the planning authority should consult SEED about the proposals.

## Refusal of permission or imposition of planning conditions for agricultural reasons

B8. When any views expressed by DRA are material to the refusal of planning permission, or to the imposition of conditions on a permission granted, it will be necessary for the planning authority to refer to them in their notice of decision in accordance with Article 22(1)(b) of the GDPO. Where, apart from any views expressed by the DRA, agricultural considerations are a reason for refusal of planning permission this should be stated in the notice of decision in the usual way.

B9. WAG or, in cases decided by its Inspectors, the Inspector, may ask DRA to provide a technical assessment, if this is considered necessary, to ensure that the agricultural issues raised are properly dealt with in the course of an appeal. Such an assessment would be made available to the parties on the same basis as if it had been requested by the planning authority at the application stage.

## Appeals

B10. Where an application is called-in for determination by Welsh Ministers or goes to appeal, and a local inquiry is to be held, the Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003 (SI No 2003/1266) apply. These provide that, where DRA has expressed to the planning authority a view that permission should not be granted, either wholly or in part, or should only be granted subject to conditions:

- DRA will be informed by the authority of the inquiry and should, unless it has already done so, give a statement of the reasons for its view;
- the authority must include the terms of DRA's expression of view in its pre-inquiry statement of case; and
- the applicant/appellant will be able to require DRA to provide a representative at the inquiry.

These arrangements apply whether or not the consultation with DRA has been carried out under statutory arrangements. The authority may wish to ask DRA to be represented at an inquiry.

B11. Contact details for SEED: Regional Planning Adviser, Sustainability and Environmental Evidence Division, Department for Rural Affairs, Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.

## Non-statutory consultations with Forestry Commission Wales: planning applications

B12. Planning authorities are advised to consult Forestry Commission Wales on all development proposals which affect ancient semi-natural woodlands or ancient replanted woodlands as recorded in the Countryside Council for Wales' Provisional Inventory of Ancient Woodland. Consultation should be with Grants and Regulations, Forestry Commission Wales, Victoria Terrace, Aberystwyth, SY23 2DQ.

