GOVERNMENT RESPONSE
to the
ROYAL COMMISSION ON ENVIRONMENTAL POLLUTION'S TWENTY-THIRD REPORT
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Notification of publication sent to Members of the National Assembly for Wales by the Minister for Environment, Planning and Countryside. August 2003.

The overarching Government response prepared by ODPM on behalf of the devolved administrations was laid before the Westminster Parliament on 17 July 2003.

Taken together the overarching response and the daughter documents of the devolved administrations provide the formal response to the Commission's report.
Introduction

The Welsh Assembly Government is supportive of a more coherent and effective planning system, which brings together economic and social objectives with environmental considerations, as advocated in both general and specific terms in the RCEP report.

Through the development of the Wales Spatial Plan, the Assembly recognises that engendering a spatial approach towards controlling the use of land can have positive effects on safeguarding environmental and wider sustainability. A spatial approach is fundamental in ensuring that strong links exist, and are enhanced, between local planning authorities and specialist agencies responsible for controlling pollution, protecting the natural environment and built heritage and fostering economic and social progress.

This document represents the detailed response of the Welsh Assembly and should be read in conjunction with the overarching response prepared by ODPM on behalf of the four administrations.

[Recommendation 1] We recommend that the demonstrable capacity of public participation to improve plans and policies should be fostered by improving existing procedures and developing new deliberative processes. (5.18)

The Government will draft all future legislation and procedures to comply with the public participation requirements of the Aarhus Convention and is currently in the process of updating existing legislation and procedures to ensure that compliance is met.

[Recommendation 2] We recommend that the legislation on development control, conservation areas, scheduled monuments, listed buildings and control of advertisements should be consolidated and a single consent procedure introduced, provided this can be achieved without any weakening of the present safeguards. (5.21)

The UK Government's Policy Paper "Sustainable Communities: Delivering through Planning" said that it intended to commission a research project to look at the scope and benefits of a single consent regime. That research project has now been commissioned and is expected to report in early 2004.

The research will consider the extent to which the planning, listed building and conservation area consent regimes could be integrated into a single regime. Additionally, it will consider the extent to which the following regimes could also be integrated into that single unified system: consent under the Advertisement Regulations; Building Regulations approval; Scheduled Monument Consent; Hazardous Substances Consent; and consent for works to trees protected by preservation orders or situated in conservation areas. We will consider the outcome of that research when deciding how to proceed in Wales.
[Recommendation 3] We recommend that pollution control authorisation and planning permission for industrial plants should be obtained through a single open process involving a common environmental statement (see 7.27-7.28 below) and, where appropriate, a joint public inquiry. (5.24)

There is no statutory requirement on a developer to obtain planning permission before pollution control authorisation, or vice versa. Industry may need, in some cases, to have sufficient security in respect of location before making the substantial commitment for authorisation of the specific process.

However, the Welsh Assembly Government recognises the benefits that can accrue from considering planning applications and pollution control authorisations together. 'Planning Policy Wales' states that local planning authorities and pollution control authorities should co-ordinate a joint approach towards developers wherever possible, especially when an Environmental Statement is required. Where it is not possible to submit the planning and pollution permit application at the same time Planning Policy Wales' states that close consultation between the relevant authorities is required.

The Town and Country Planning General Development Procedure Order 1995 establishes the Environment Agency as a statutory consultee for certain types of development. We are aware of discussion between the Agency, the Planning Officers Society (POS) and the Local Government Association (LGA) to identify ways in which co-operation can be improved and the commitment of industry to the parallel tracking of applications, where appropriate, can be obtained. We are also undertaking research on 'Health and Planning' and recommendations may emerge from this which will be of benefit to future reviews of 'Planning Policy Wales'.

[Recommendation 4] We emphasise that there should be no reduction in the obligations on planning authorities to consult the agencies responsible for pollution control, flood defence, conservation of species and habitats, countryside and the built heritage. (5.29)

We agree with this recommendation. 'Planning: delivering for Wales' proposed that the number of statutory consultees and the types of development for which they should be consulted could be reviewed. However, this did not imply a reduction in the number of consultees. Rather the proposal aims to ensure that those consultees relevant to a particular application, including those responsible for providing advice on economic, environmental health and safety implications or those involved in a parallel consent regime would be consulted. This issue will be looked at in greater detail as part of the 'Planning: delivering for Wales' programme.

[Recommendation 5] There will be some types of case in certain areas where the relevant specialist agency can provide the planning authority with standing advice in advance, and so dispense with the need for consultation on individual cases and we recommend that more effort be devoted to identifying such categories of cases. (5.29)
The concept of standing advice in relation to low risk applications is supported in principle as a means of speeding up the planning process. However, the Assembly considers that more detail is required before it can properly decide and it will be important that any approach towards standing advice can support the proposed changes in development planning and development control advocated through 'Planning: delivering for Wales'. These issues will be considered as part of the planning reform process.

[Recommendation 6] We recommend the establishment of Environmental Tribunals to handle appeals under environmental legislation other than the town and country planning system, including those now handled by planning inspectors. (5.36)

Procedures for taking decisions on environmental matters outside the town and country planning system have grown up over time and are enshrined in different Acts of Parliament.

However, while we acknowledge that there are variations between appeal provisions in environmental legislation, there is not yet a consensus for the creation of Environmental Tribunals. We do not as yet know the scale of demand to replace the existing arrangements of written submissions, public local inquiries or hearings, with such a body.

Before government would be prepared to consider the creation of a new body of this kind, it would need to be fully satisfied that it would add value and that its proposed workload could not be carried out equally effectively within existing judicial fora. Current research will consider the value of a new tribunal, and should inform future discussion of the matter.

[Recommendation 7] We recommend that third parties should have a right of appeal against decisions on planning applications in certain circumstances, and that similar rights of appeal for third parties should be introduced for other forms of environmental regulation (5.46).

We disagree with the RCEP’s recommendation. A third party right of appeal against the grant of planning permission, even one limited in scope is not supported as it would slow down the system, and potentially undermine social, economic and environmental progress. It would not be consistent with a democratically accountable system which rests on the responsibility of local planning authorities to act in the general public interest when determining planning applications. They must take account of the views of local people on planning matters before decisions are made and justify their decisions subsequently to their electorate.

The planning system already provides opportunities for anyone affected by or with an interest in the development of an area to make their views known and to have those views taken into account. Through the provisions of the Planning and Compulsory Purchase Bill it is intended to build on and strengthen these opportunities by making the planning system more
accessible and transparent with enhanced opportunities for community involvement throughout the process. In 'Planning: delivering for Wales' the Welsh Assembly Government set out proposals for ensuring a transparent framework for making decisions on planning issues, taking into account the views of third parties. We would expect to see open, well advertised arrangements for Planning Committees which involve the public and ensure that their views are reported to the Committee before it takes its decision.

The Bill provisions, and the priorities identified in the 'Planning: delivering for Wales' programme, will also strengthen the opportunities for people to comment on and influence development proposals much earlier in the process, even before a planning application has been submitted. By listening to people's concerns up-front the need for action after a decision has been made should be minimised. We are also looking at the way in which local authorities' own planning applications are handled and the way in which they notify the National Assembly of departures from local development plans.

We have no plans at present to introduce third party rights of appeal for other forms of environmental regulation and indeed have some concerns. There may be a case for limited scope but only within a system which was streamlined, produced a decision within a time limit and was not a delaying tool which could be used to increase costs and result in worthy proposals falling. We are aware that Defra is providing funding into an independent research project which will look at some aspects of environmental justice. Findings should help to inform discussion surrounding the current arrangements and the Welsh Assembly Government would expect to be fully informed of any outcomes and consulted on any proposals which emerge.

[Recommendation 8] We recommend that the public planning register should contain, not only all section 106 agreements entered into, but also the heads of agreement between the local planning authority and the developer which provide the basis for negotiating the detailed terms. Local authorities should also be encouraged to consult the public on the terms of such agreements. (5.57)

Planning obligations are an important part of the planning system. It is intended to amend the GDPO to require local planning authorities to put obligations and agreements on the planning register. Draft legislation is currently being consulted upon.

[Recommendation 9] Planning authorities must be properly resourced for their tasks so that they will not have the incentive to accept forms of funding which could prejudice their decisions. (5.58)

The Welsh Assembly Government agrees that nothing should adversely affect the propriety of local authority planning decisions.

Local planning authorities are responsible for preparing development plans and processing development proposals worth over £1 billion a year in Wales. There is clearly a need to ensure that the service is resourced properly and
provided as cost effectively as possible. The Assembly Government has already taken a number of steps to ensure the proper funding of local authority planning services. Planning fees in Wales have been increased by 14%, to the same level as in England, with effect from 4 September 2002.

Also, the Planning and Compulsory Purchase Bill proposes an amendment to the current fee setting powers in the Town and Country Planning Act 1990 so that fees and charges can be levied on a wider range of local authority planning functions. To inform decisions on the use of these wider powers (subject to Parliamentary approval of them) ODPM is carrying out a fundamental review of the fee regime. This will be considered in more detail as part of the ‘Planning: delivering for Wales’ programme.

Resources for Planning have been allocated in Wales (£1 million – 2 million – 3 million over the next three years). The resources will be divided equally between the 25 local planning authorities. To guide the process and assist with monitoring the Assembly has developed a self assessment survey. The WLGA and POSW have been involved in the process, which is very much related to local planning authorities addressing needs and priorities at the local level.

[Recommendation 10] We recommend that, where a local authority might have a conflict of interest in relation to a planning matter it is considering, there should be a statutory requirement for it to make a formal public declaration of the nature and extent of its interest before taking a decision. We further recommend that the decision whether to grant planning permission for any development above a specified size promoted by a local authority or affecting local authority which is also the planning authority or affecting its land should be taken by an inspector appointed by the Secretary of State. (5.60)

Self -development of land by local authorities is governed by the procedures laid down in the Town and Country Planning General Regulations 1992. Additional guidance on these Regulations is set out in DOE Circular 19/92. Essentially this means that authorities are required to make planning applications in the same way as other applicants and follow the same procedures.

While authorities can grant themselves planning permission for development of their own land or for development to be carried out by the authority and a third party, there are safeguards in place to check opportunities for abuse. Firstly, such proposals must be advertised in the same way as any other similar applications. Secondly, the decision-making process is taken out of the hands of the committee or the relevant planning officer who would normally have the responsibility for the management of the land or building which the application relates. There is also transparency in the process because members of the public cannot be excluded from the relevant meetings at which local authority development proposals are discussed. Local authorities must take into account relevant objections by local residents. Only genuine land-use planning concerns can be taken into account.
Moreover local authorities are required to notify the National Assembly if their land proposals do not conform to the provisions of the development plan in force in the area. Consideration will then be given to whether to call-in the application for Assembly determination. Interested parties can ask the Assembly Government to call-in applications even if they do conform to a development plan.

The Assembly Government's policy is to be very selective about calling in planning applications. It will, in general, only take this step if planning issues of more than local importance are involved. Such cases may include, for example, those which, in the Assembly's opinion:

- may conflict with national policies;
- could have wide effects beyond their immediate locality;
- give rise to substantial controversy beyond the immediate locality;
- are likely to effect sites of scientific, nature conservation or historic interest or areas of landscape importance;
- raise issues of national security; or
- raise novel planning issues.

However, each case will continue to be considered on its individual merits.

Similar procedures are in place where the proposal is for development which will be carried out on local authority owned land by another developer.

There are many safeguards in the current planning system which will cover the type of situation envisaged by RCEP i.e. where applications will be referred to the Assembly to consider calling in. Under the various Directions (Departures and Shopping) the common requirement is for LPAs to notify the Assembly if they propose to grant planning permission for applications subject to referral under any of the Directions. This requirement only applies if LPAs want to grant permission, the requirement does not bite if they want to refuse permission. LPAs only have to refer applications after they have considered the application and they have decided that they wish to grant permission, they do not have to refer an application as soon as it is made.

The Assembly Government's decision on whether or not to call in an application referred to it under these Directions will be taken in the light of its call in policy:-

a) If an application is called in a public inquiry will be held – the Inspector will send his/her report to the Assembly following the inquiry with a recommendation about whether the application should be granted, granted with conditions or refused.

b) If the Assembly Government decides not to intervene then the LPA is left to determine the application.

Despite these safeguards the Assembly Government is currently reviewing the way in which planning applications by a local authority are handled and the way in which the Departure Direction is working.
[Recommendation 11] We urge the government and the devolved administrations to review all categories of data withheld on grounds of commercial confidentiality, to see which can be safely released. In particular, we recommend that Agricultural Departments place agricultural returns in the public domain. (6.15)

The RCEP does not specify which returns it is referring to. Statistical returns are covered by specific legislation as well as the Welsh Assembly Government’s Code of Practice on Access to Information.

The introduction of the Code of Practice based on the principles of the Freedom of Information Act (FOIA) has already led to a review of information that is held. In addition, new Environmental Information Regulations (EIR) are to be made this year. These will be accompanied by guidance and a public interest test applied to all refusals on commercial confidentiality. It has to be recognised within this however, that the legal case for keeping returns confidential may prove stronger than the public interest test.

The National Assembly collects a range of statistical returns from agricultural holdings. These include the Agricultural Census and the Farm Business Survey. The use of statistical sources is controlled by the National Statistics Code of Practice, the Agricultural Statistics Act 1979 as well as general data protection legislation. The code of practice requires the release of aggregate statistical information provided that this information is not disclosive about individual farms or farmers and that the data are of sufficient statistical quality to be released at the chosen level of detail.

The National Assembly for Wales regularly publishes a wide variety of statistical information. These publications, releases and bulletins are available on the statistical pages of the Internet site. A new bulletin is in preparation that will publish non-disclosive information from the Agricultural Census at a small area level. This bulletin is planned for the end of July.

[Recommendation 12] We recommend that data which have been gathered in the public name and for the public good should be available electronically at no cost for public use. (6.20)

The Welsh Assembly Government agrees with the principle that much information should be available for access electronically free of charge. The Welsh Assembly Government’s Publication Scheme is already available electronically, and links to a vast resource of electronic data.

However, collecting and producing information and making data available is not without cost. Environmental data is often collected at public expense for a specific purpose. Whilst every effort is made to store data that enables it to be used for a variety of uses there are limitations on what can be achieved without incurring disproportionate cost or conflict with other work priorities.

There are some circumstances where a charge for access is appropriate. This could include a situation where the private sector produces similar information commercially, or where access is free of charge but re-use of the information
may, in particular cases, require a licence for which there may be a charge. There may also, of course, be some data which is not available for public access or re-use for personal, commercial or other reasons where the public interest in refusing access overrides that in disclosure.

Defra has consulted on proposals to encourage public authorities to proactively disseminate environmental information by electronic means in order to implement the requirements of the new EC Directive on Public Access to Environmental Information (2003/4/EC). New Environmental Information Regulations will require public authorities to make all reasonable efforts to organise environmental information held by or for them with a view to its active and systemic dissemination to the public. Information to be maintained and made available will include international agreements, legislation, policies, plans, programme and reports relating to the environment. Data, or summaries of data, derived from monitoring of activities affecting the environment should also be disseminated.

[Recommendation 13] We recommend that the government adjust the financial model for public bodies holding and developing essential data sets (such as the Natural Environment Research Council and the Ordnance Survey) and replace income from sales of environmental information with direct grants. Consideration should be given to retaining a market element by relating the level of grant to the public use made of a body's data sets. (6.20)

Much Government information on environmental and other matters is available for access, and for re-use, free of charge or at minimal cost. We consider that for the public bodies mentioned in this recommendation, a financial model in which the public sector pays for the information materials which it uses, and the private sector pays for those which it uses, has the effect of relating the funding of such organisations to the public use made of the body's data sets. It promotes the efficient use of resources by incentivising users to identify their priority requirements and the supplying bodies to respond with value for money services.

There are no easy alternative options. Some commentators have suggested that if alternative funding could be found up-front to replace income from sales to non-central government users, it would subsequently lead, at some future date, to a greater financial benefit to Government from more employment in commercial information suppliers of value-added services. But that is far from certain, and if such an increase in employment did occur in that industry, it could be at the expense of employment elsewhere in the economy. The only certain assumption is that income from sales of environmental information by these public bodies could only be replaced by direct grants if resources could be diverted from other government functions, such as health, education, etc, or from an increase in taxation.

We consider that would be a less efficient use of resources. Moreover, some or all of the services undertaken by such public bodies are capable of being undertaken by the private sector which might be discouraged from such enterprise if it were unable to see the prospect of selling its services to earn a
return on its investment, thus the proposal to replace sales with direct grants is potentially anti-competitive.

[Recommendation 14] *We recommend that the Government fund a feasibility study on the use of Grid technology in planning.*

Such a high capacity network has clear benefits to computationally intense applications such as climate prediction and particle physics. But it is unclear what benefits it could bring to planning process where computational requirements are more modest.

[Recommendation 15] *We recommend the establishment of a virtual centre for environmental data, in order to overcome the barriers to presenting coherent and consistent environmental information in electronic form. (6.36)*

The Freedom of Information Act (FOIA) establishes that each public authority should manage its own virtual portal through its Publication Scheme.

Numerous similar systems already exist, but not yet a single environmental portal. For example, the Welsh Assembly Government and the Environment Agency provide two important portals for environmental information, but Local Authorities, ODPM, Defra, the Department for Transport and a large range of non-departmental public bodies also collect and manage environmental information. Such sites should seek, where possible, to provide links to other relevant sites where environmental information is held.

Legislation is under consideration by the EC that could lead to the creation of such a national and community level geographic information portals. A new directive, known as INSPIRE (Infrastructure for Spatial Information in Europe) seeks to deliver consistent quality controlled geographic information for community policy making at local; regional, national and international levels. ODPM and Defra are jointly taking the lead on co-ordinating the UK response to the INSPIRE consultation process.

Public authorities are required by law to hold certain environmental information in publicly accessible registers. Defra is developing a web portal to provide easy, searchable access to details of all such environmental public registers, including the location of registers and web links to registers that are held online.

[Recommendation 16] *All relevant public sector bodies would be under a statutory obligation to give free access to their information. (6.39)*

The Welsh Assembly Government agrees that in-situ access to public registers or lists of environmental information should be free of charge.
Where information is published on public websites there is normally access free of charge, and brief extracts of the material may be reproduced for the purposes of research, private study, criticism, review and news reporting.

In other circumstances it can sometimes be appropriate to make a charge for producing the material. In particular cases, the information should be made available on a commercial basis where public and private users pay for what they use, or in the interests of fair competition where the private sector produces similar information.

There is provision for public authorities to make environmental information available at a reasonable charge where appropriate. In particular cases where information is made available on a commercial basis, and where this is necessary to guarantee the continued collecting and publishing of such information, a market-based charge is considered to be reasonable. This approach is endorsed by EC Directive 2003/4/EC.

[Recommendation 17] Where compliance with a numerical standard is the goal, the body setting the standard should give clear guidance on the appropriate methodologies for modelling and measurement. (7.20)

The Welsh Assembly Government agrees the need for such guidance. The Environment Agency already carries out environmental modelling exercises according to consistent methodologies, and also provides guidance on modelling and monitoring the effects of discharges to water. Guidance on the statistical basis for such standards, and how they are applied, is inseparable from modelling and monitoring; developing such guidance is subject to the practicalities of providing guidance applicable to the wide range of circumstances in which it is needed, and this will affect the level of detail within that guidance that can be given.

[Recommendation 18] We recommend that consideration be given to introducing a mandatory preliminary stage in environmental impact assessment in which the planning authority will prescribe the scope of a particular assessment after public consultation (7.31)

Planning authorities are required to consult with specified bodies, including the Environment Agency and the Countryside Council for Wales, before they issue a scoping opinion. These bodies are consulted because of their knowledge and expertise on environmental issues. There is, however, no reason why a local authority may not consult more widely with, for example, local amenity or community groups that may be able to provide specific local insights. Guidance issued to developers on preparing Environmental Statements recommends that consultation with the public can be useful in identifying key environmental issues at the scoping stage prior to submitting a planning application, and there is evidence from the RCEP's report that this is happening with the public being consulted on roughly 40% of cases.
The case for requiring planning authorities to consult publicly on all requests for scoping opinions is not clear. The RCEP's report notes that in "only a proportion" of those cases where they were consulted did the public influence the content of the environmental statement.

We are not persuaded that it would be reasonable to require planning authorities to consult with the public in every case where a request for a scoping opinion is made. Not consulting at this initial stage does not of course remove the public's ability to influence the environmental statement. If there are particular omissions these can be drawn to the attention of the planning authority once the environmental statement is made available for public comment and, if necessary, the authority can request further information to address these concerns.

The RCEP may however, wish to note that ODPM is to commission a short research project to look at the extent to which scoping opinions contribute to and improve the effectiveness of the EIA procedure, and to recommend good practice guidance in preparing scoping opinions. The Welsh Assembly Government is supportive of this step recognising that better scoping will result in better Environmental Statements. The study will also consider whether and how the public may be involved in the scoping process.

Finally, scoping has not been made mandatory because developers are under no obligation to discuss their proposals with a local planning authority before submitting a planning application, or to disclose or publicise their proposals in advance.

[Recommendation 19] We recommend that a counterpart to the Dutch Environmental Impact Assessment Commission should be established in the UK to provide a rigorous independent check on the assessment process. The commission could also carry out evaluations of a sample of statements and issue guidance on best practice (7.35)

This recommendation appears to raise two issues - assessment of the EIA prior to approval and monitoring and evaluation of predictions in the environmental statements post-approval. The relevant text that precedes the recommendation, however, focuses only on the post-approval stage.

For projects that are authorised through the town and country planning procedure, the environmental impact assessment is undertaken by the developer and the report on his assessment (Environmental Statement) submitted to the planning authority. It is for the planning authority to satisfy itself that the assessment has been carried out rigorously and that the Environmental Statement (ES) accurately, and without undue bias, reports all of the likely significant environmental effects. In doing it consults with relevant environmental bodies and the public.

If any of the consultation bodies have concerns about the assessment or the information in the ES, or about the methodologies used to obtain it, it is open to them to raise these with the local planning authority, who may request further information or clarification from the developer. The local planning authority may
also commission an independent review of the ES, or parts of it, from bodies such as the Institute of Environmental Management and Assessment or an environmental consultancy. It could probably also seek a view from one of the universities that have EIA Centres of Excellence and that carry out much research on EIA.

We believe that local planning authority have at their disposal adequate means to ensure that the EIA assessment process for planning projects is carried out rigorously; that it fairly and accurately reports the likely effects and suitable measures to mitigate them, and that it challenges unsupported claims and assumptions about both environmental effects and mitigation measures.

Post-approval monitoring and evaluation is not a requirement of domestic or European legislation, although it is worth noting that some local planning authorities monitor planning conditions. But studies are from time-to-time carried out to gauge the effectiveness of the EIA procedure. Studies are also routinely carried out by many of the UK's universities so a substantial amount of information is available about EIA.

ODPM will be commissioning a research project looking at changes in the quality of environmental statements later this year, to which the Welsh Assembly will be party. The study will be asked to recommend ways in which quality can be further improved. As a corollary the requirements of regulatory authorities should be proportionate to both the environmental risk and the scale of the project proposed, so as not to place unreasonable cost burdens on developers and so deter the submission of applications for bona fide development. However, we do not envisage that a Commission on similar lines to the Netherlands model will be established.

[Recommendation 20] We recommend that human health issues be incorporated explicitly in the environmental impact assessment process (paragraph 7.38)

For projects where environmental impact assessment is required it is expected that the assessment will consider the potential effects that the project will have on people's health. For example, the assessment should address the likely effects of discharges to air and soil and water and how these may impact upon the human population.

The Welsh Assembly Government recognises the benefits of Health Impact Assessment (HIA), and recognises that it should be carried out as part of sustainability appraisals or sustainability impact assessments, or even within Strategic Environmental Assessments. However, we are not persuaded that detailed health impact assessment, which requires different expertise and methodologies, should form an integral part of environmental impact assessment at individual project level. Despite this, we are committed to investigating ways to ensure that appropriate and independent advice on public health risks associated with development is made available to planning authorities. Research is currently underway on 'Health and Planning' and the recommendations which result from this work will be considered as part of future reviews of planning policy.
[Recommendation 21] We recommend that the government, if it wishes to retain sustainability appraisal, strengthen the environmental component so that it will satisfy the legal requirements of the European Directive on strategic environmental assessment. We do not consider that sustainability appraisal as currently undertaken is adequate for this purpose. (7.48)

The Government remains committed to the principles of sustainable development and sustainability appraisal. Good practice on sustainability appraisal of Unitary development plans, "Sustainability Appraisal of Unitary Development Plans in Wales: A Good Practice Guide" was published in Wales in September 2002. Further guidance will be required on meeting the SEA Directive, however, we believe the methodology for sustainability appraisal which this document promotes in the meantime works with the grain of the Directive's requirements, which are discussed throughout the document.

[Recommendation 22] We recommend that a comprehensive and definitive statement of priority objectives for the environment be produced now for each part of the UK, and widely publicised. (8.7)

'Plan for Wales 2001', the strategic plan for the last Assembly Government, set out key commitments and targets to improve the environment. Ministers of the new administration have yet to take a view as to whether or when a successor to this document should be prepared.

[Recommendation 23] Wherever possible, this statement must include a quantified target or targets for movement towards the objective by a specified date. (8.7)

'Plan for Wales' sets targets for what the Welsh Assembly Government was aiming to achieve by 2003/4 and by 2010.

[Recommendation 24] We recommend that the initial statements of priority environmental objectives should be reviewed at an early date through a process of extensive consultation and debate about environmental priorities. (8.8)

The Welsh Assembly Government is firmly committed to promoting wide participation and consultation within the policy development process. The Assembly Government's Waste Strategy followed a substantial period of consultation, both formal and informal, with main stakeholders actively engaged via a Wales Waste Forum.

The State of the Environment Report for Wales 2003 presents the views of the main agencies delivering environmental objectives and provides the basis for reviewing priority environmental objectives and debating them within Wales.
[Recommendation 25] *It will be necessary to produce a statement of priority environmental objectives for the UK as a whole, as well as for each component part.* (8.9)

Many areas of environmental policy are devolved and the separate administrations have their own distinctive mechanisms for agreeing and monitoring programmes of delivery with its agencies and partners. However, within this there is often close collaboration between the different administrations within the UK – and indeed beyond, through the Environmental Strand of the British/Irish Council.

[Recommendation 26] *We recommend the statements of priority objectives should be prepared on the basis that sustainable development is achievable only if the environment is safeguarded and enhanced.* (8.10)

In the context of our comments on recommendation 22 we agree with this recommendation in so far as sustainable development can be achieved through adequately safeguarding the environment as a whole.

[Recommendation 27] *It is essential that each objective is underpinned by a soundly based program for achieving it.* (8.13)

The Welsh Assembly Government has its own distinctive mechanisms for agreeing and monitoring programmes of delivery with its agencies and partners. In the context of our comments on recommendation 22 we are firmly committed to having sound programmes for delivering sustainable development objectives.

**Recommendation 28** *We recommend that the town and country planning system should be given a statutory purpose, and that an appropriate purpose would be 'to facilitate the achievement of legitimate economic and social goals whilst ensuring that the quality of the environment is safeguarded and wherever appropriate enhanced'.* (8.33)

The Welsh Assembly Government understands the rationale for setting out a statutory purpose for the town and country planning system. However, we are concerned that any such purpose would need to be drafted in such a way that it could not be misinterpreted or lead to legal argument over interpretation which could hamper the operation of the system.

Therefore, Clause 38 of the Planning and Compulsory Purchase Bill, places a duty on those persons and bodies exercising functions in respect of the preparation of the Wales Spatial Plan and local development plans [in Wales] to do so with a view to contributing to the achievement of sustainable development. In doing so, the bodies concerned must have regard to policies and guidance issued by the Welsh Assembly Government.
This duty is supported by the requirements in the Bill for LDP’s in Wales to undergo a sustainability appraisal.

The Welsh Assembly Government believes that the best approach is to set out a specific duty, rather than a general statement of purpose whose application is unclear. This follows the approach taken in other legislation. Under the plan led system, a duty at the policy and strategy level will provide a framework within which planning decisions have to be considered. Under Clause 37 of the Bill, where regard has to be made to the development plan in making planning decisions, the decision must be made in accordance with the plan unless material considerations indicate otherwise.

The Welsh Assembly Government also believes that the duty should be framed with a simple reference to sustainable development rather than trying to define in legal terms what is a complex and evolving concept. Instead, guidance will be issued to expand on the definition and operation of the Clause. A briefing note issued to the Standing Committee on the Bill on the duty in the Clause, can be found at http://www.planning.odpm.gov.uk/consult/greenpap/clause38/01.htm

UK Ministers made clear to the Standing Committee that in this context, the Government will continue to espouse the four objectives for sustainable development, which must be met at the same time:
- Maintenance of high and stable levels of economic growth and employment.
- Social progress which recognises the needs of everyone.
- Effective Protection of the environment; and
- The prudent use of resources.

[Recommendation 29] We repeat the recommendation made by the Commission in 1996 that the diverse legislation the Environment Agencies inherited should be reviewed to give it coherence and relate it to consistent general principles, and the necessary changes should be enacted at the earliest practicable opportunity. (8.35)

The Welsh Assembly Government agrees that the legislation the Environment Agency inherited should be reviewed to give it coherence. Work on a review was initially delayed to allow the agencies time to become established and deal with some of the mechanics of devolution. Following devolution in 1999, it was agreed that a Whitehall review should focus on the situation in England and Wales.

The review has looked at the possible rationalisation of the regulatory mechanisms which the Agency operates, the workings of the legislation the Agency inherited and the administrative and managerial arrangements it has adopted.

An interim report was published in 2000 and the Environment Agency was commissioned to assess the implications of a simplified structure of regulation. This work has now been completed, and Defra are in the process of drawing
up the final report and aim to publish this in the next few months. The Assembly have been consulted and have obtained the previous Environment Minister's support of the proposed simplification and standardisation of environmental regulation and licensing.

[Recommendation 30] We recommend that town and country planning legislation should stipulate key aspects of the environment and natural resources as material considerations that should be taken into account in considering planning applications. (8.36)

Given that the circumstances surrounding planning applications vary so widely, we do not consider it would be appropriate for legislation to prescribe the material considerations that should be taken into account in considering planning applications. Whether particular matters are material considerations, and the weight that should be attached to those matters, are properly for the determining authority to decide in the light of the circumstances of the individual case. Ultimately, only the courts can decide if a factor is material to a case.

However, detailed advice on what might be material in certain circumstances is provided in 'Planning Policy Wales', 'Minerals Planning Policy Wales' and the series of Technical Advice Notes which underpin this policy guidance. 'Planning policy Wales', for example, outlines a number of key policy objectives for the planning system in Wales which reflect the sustainable development agenda and emerging priorities contained in the Wales Spatial Plan. They should also be taken into account in preparing development plans and taking decisions on planning applications throughout Wales.

[Recommendation 31] We recommend that planning policy guidance for England (the PPG series) should be condensed into a single document updated at frequent intervals, both on the Internet and in paper form;

Planning policy in Wales is already contained in two integrated documents, 'Planning Policy Wales' and 'Minerals Planning Policy Wales'.

[Recommendation 32] We emphasise that proposals for major infrastructure projects should always be put forward within the framework of carefully considered national policies, which should always be adopted after wide public consultation, and take full account of environmental considerations including the statement of environmental objectives we have recommended. (8.49)

This is obviously desirable, that is to say there will generally be consultation on draft policies, and full account will be taken of the relevant environmental issues. In this context, proposals for Major Infrastructure Projects will be considered as they emerge.
[Recommendation 33] The national need for additional infrastructure should be probed in an open and participatory process, which where practicable should engage local communities which may be affected. (8.50)

We believe the approach we are to adopt does this. Need will be taken into account when a planning proposal is being considered and local communities may participate in that planning process. As far as Major Infrastructure Projects are concerned, we agree that there is a need for clearer Government policy statements to be available to ensure an appropriate context for decision making.

[Recommendation 34] The issues involved in framing a national policy underlying major infrastructure projects may be better handled by a body which combines inquisitorial and adversarial elements, as a planning inquiry commission would. (8.56)

We believe that the system we propose for handling planning applications in Wales, involving the existing well proven inquiry system will best facilitate the handling of MIPs proposals.

[Recommendation 35] There must continue to be open hearings at which local people and others can express views about the local impacts of a proposed major infrastructure project and challenge claims by the developer. (8.58)

We believe that our proposals for major infrastructure projects referred to above achieve this.

[Recommendation 36] We recommend that, if under the government’s proposals for major projects the inspector conducting the local inquiry concludes that the local impacts of a proposed project would be unacceptable, he should be permitted to recommend that the approval in principle should be reconsidered. (8.58)

There is no such concept in land use planning of “approval in principle”. In relation to Major Infrastructure Projects, the existing well proven inquiry system enables Inspectors to make a recommendation for or against a whole project following a public inquiry.

[Recommendation 37] We recommend that targets set for developing renewable energy at regional and local levels should have a firm and consistent basis in terms of the capacity for developing each of the main types of renewable energy without damage to the environment. (8.65)

The Welsh Assembly Government broadly agrees. We have set out our priorities for Energy policy in a Statement delivered by The Minister for
Economic Development on 26 February 2003. This proposes a strong drive against appropriate benchmarks (4TWh 2010 and 7TWhr 2020), for a sustainable mix of renewable energy developments. We have also advocated the setting of achievable and measurable carbon dioxide targets of 20% for 2020.

The Assembly Government’s aim is to secure the right mix of energy provision for Wales to take us forward through the next two decades, minimising our impact on the environment, strengthening renewable energy production and focusing on energy efficiency and conservation. We believe the right energy mix will mean that we have secure, diverse and affordable energy whilst meeting environmental commitments without any new nuclear power generation in Wales within this timeframe. The development of a unique energy strategy for Wales sets us firmly on the path towards a low carbon future, and provides a coherent and medium term strategy which fits within our sustainable development duty.

We are also undertaking research on ‘Facilitating Planning for Renewable Energy’, to supplement the revision of TAN 8 Renewable Energy. This will assist with establishing a broad and consistent planning basis for taking forward contributions towards the overall targets at the regional or local level.

[Recommendation 38] We strongly support giving greater prominence to energy issues in regional planning guidance. (8.69)

The Assembly will be the lead body responsible for preparation of the Wales Spatial Plan, which is likely to include an outline of the contributions expected from other public bodies. Through its wide ranging policy responsibility, the Assembly will help to ensure that public bodies co-operate in the preparation and implementation of the Wales Spatial Plan. The revision of TAN 8 Renewable Energy, along with ‘Planning Policy Wales’, will supplement the Wales Spatial Plan and provide a consistent planning basis for local authorities to consider the contribution that their areas can make towards the Assembly’s renewable energy objectives.

[Recommendation 39] We recommend that planning policy guidance on renewable energy in England, which is now nearly nine years old, should be revised and reissued as soon as possible. (8.72)

Updated planning policy on renewable energy was published in March 2003 in ‘Planning Policy Wales’. However, the Assembly Government acknowledges that the detailed advice contained in ‘TAN 8 Renewable Energy’ is also out of date. Work on the revision on TAN 8 is underway, including research work to inform the development of the advice. The Assembly Government hope to publish a draft for public consultation during the latter half of 2003.

[Recommendation 40] Mechanisms are needed to ensure that legitimate societal needs can be met in the face of preferences opposing the developments implied by those needs. The town and country planning
system is intended to be such a mechanism but such developments must be essential parts of comprehensive and generally accepted policies, they must stem from transparent assessments of needs and environmental capacity, and there must be more imagination in countering any adverse effects on particular areas. (8.73)

The Welsh Assembly Government agrees that the planning system must provide mechanisms for mediating between societal needs for sustainable development and the legitimate concerns of individuals and communities. We also agree that the planning system must be transparent, accessible and hold the confidence of developers, individuals and communities.

The planning reforms will reinforce these strengths, in four main ways. Firstly by putting sustainable development, with its recognition of social needs, at the very heart of our reforms. Secondly, by promoting more effective participation and engagement covering all sections of the community so that the preferences of the few do not dominate. Thirdly by requiring a transparent assessment of how draft plans satisfy sustainable development needs through the sustainability appraisal process and the independent examination into the soundness the plan. Fourthly, and most important of all, by seeking to change the culture of planning from a reactive process to an imaginative and proactive approach to spatial change.

[Recommendation 41] We recommend that the overall policy objective for contaminated land should be to identify and seek to bring about the combination of remediation and subsequent use that represents the best practicable environmental option for each site. (9.10)

The Welsh Assembly Government's policy objectives are clear. These are to identify and remove unacceptable risks to human health and the environment, to seek to bring damaged land back into beneficial use and to seek to ensure cost burdens faced by the parties involved are proportionate, manageable and economically sustainable.

Clear planning objectives in 'Planning Policy Wales' are to encourage the beneficial re-use of previously developed land while ensuring that any unacceptable risks from contamination are identified, and can properly be dealt with, before planning permission is granted.

[Recommendation 42] We recommend that the government and the devolved administrations set target dates for local authorities to complete their inspection of contaminated land, and provide the necessary finance for them to do so. (9.12)

Additional funding to facilitate inspection work on contaminated land has been provided by the Welsh Assembly Government since 1999 through the Revenue Support Grant. The Welsh Assembly Government is currently exploring ways of identifying an additional source of funding for the identification/remediation stage of the contaminated land regime, to allow local authorities to take forward required remediation schemes where no additional provision has
been made available for this. Until this has been established it is difficult to comment on the feasibility of locally set targets.

[Recommendation 43]. We recommend that, once a clearer picture emerges of the extent of the problem posed by contaminated land and the possible uses for remediated sites, the government and the devolved administrations should set targets for the total area to be brought back into beneficial use over ten years and should plan to provide the necessary finance. They should also report on the feasibility of the 2030 goal for dealing with contaminated land proposed by the Urban Task Force. (9.14)

The Welsh Assembly Government is of the opinion that it is difficult to make a definite commitment to a 10 year programme before the scale and cost of the problem has been assessed.

A number of factors affect this. Although contaminated land is a sub section of brownfield land it is important to note that not all contaminated land may be brownfield as defined by ‘Planning Policy Wales’. This is because leachates from contaminated brownfield sites can spread into adjacent greenfield sites.

Also, the uses that remediated sites are put to will depend to a broad extent on the economics of bringing a site forward. This will relate to the scale of contamination, the owner’s willingness to deal with it (if an owner can be traced) or, in the case of orphan sites, the willingness and ability of Government to fund the clean up.

In the meantime, clear planning policies are outlined in ‘Planning Policy Wales’, which emphasise the preference of the Assembly Government to see the re-use of previously developed land and buildings and wherever possible avoiding development on greenfield sites. However, it is recognised that not all previously developed land will be suitable for development. Despite this, the policy document advocates that local planning authorities and other stakeholders need to be more proactive and wherever possible bring sites forward as part of a coherent approach to renewal.

[Recommendation 44] We urge the government to put in place mechanisms to replace the Partnership Investment Programme for land remediation. (9.16)

The Partnership Investment Programme did not apply to Wales. For many years the Welsh Development Agency (WDA) has been able to fund private companies and individuals up to 80% of the net cost of reclamation work. This is an EC approved scheme and does not constitute state aid. The WDA are able to fund local authorities at up to 100%. Clawback provisions apply.
The Welsh Assembly Government has been discussing the statutory and state aid processes necessary to roll out the new ODPM approved scheme in Wales with the WDA. It is anticipated that the draft SI will be made towards the end of the year.

[Recommendation 45] *Government should inject more public finance into site investigations and remediation not covered by the statutory regime for contaminated land, and develop means of recovering at least a proportion of the cost of these investigations from any subsequent commercial scheme.* (9.17)

As stated above the Welsh Development Agency (WDA) has, over a number of years, been able to fund private companies and individuals up to 80% of the net cost (i.e. taking account of land value enhancement) of reclamation work. This is an EC approved scheme and does not constitute state aid. The WDA are able to fund local authorities at up to 100%, with clawback provisions applying.

[Recommendation 46] *There should be a single web portal that would allow local authorities, developers, their professional advisers and the public to access information on contaminated land throughout the UK, and through which all relevant public documents, including research findings, would be freely available. This should also include the public registers maintained by local authorities.* (9.18)

The Welsh Assembly Government agrees with the intention behind this recommendation, which is to facilitate ease of access to information. The approach to all information established by the Freedom of Information Act is that each public authority should manage its own virtual portal, having set out its approach access to information in its Publication Scheme.

Under the Freedom of Information Act 2000, the National Assembly for Wales is required to adopt and maintain a Publication Scheme. The Scheme sets out:

- the classes of information which the National Assembly commits itself to publish,
- the manner in which it intends to publish the information, and
- whether a charge will be made for the information.

We will keep the Publication Scheme under constant review. One of the key factors which will be taken into account when doing so will be the information which the National Assembly discloses as a result of requests made under its Code of Practice on Public Access to Information. The Assembly website includes pages about land contamination, including details of legislation, circulars, guidance, and other technical material published by it and its predecessors, with links to other organisations. The Environment Agency website also has details of its own publications and its role. Both sites are linked, and there are also links to other useful sites.
Information on contaminated land is covered by the Environmental Information Regulations 1992 (as amended) and will be covered by new regulations which are to be introduced to implement the requirements of the Aarhus Convention and the new EU directive on public access to environmental information. This directive includes a requirement for public authorities to organise their environmental information with a view to active dissemination, in particular by means of electronic technology.

[Recommendation 47]  We recommend that the government and the devolved administrations review the respective roles of the town and country planning system and the building regulations in order to design and implement an effective system for achieving substantially better environmental performance in new or refurbished buildings. (9.21)

'Technical Advice Note 12 Design' contains important pointers to increase the influence of planning authorities in encouraging resource efficient site layout and building design which incorporates energy efficient features. The Assembly Government realises that the challenge is to educate and encourage planners to be proactive and make the most of opportunities to secure sustainable design and we hope to reinforce this message through 'TAN 8 Renewable Energy' when it is issued for consultation. Also we hope to undertake awareness raising and offer training opportunities for planners in relation to renewable energy which is being facilitated by money made available to the devolved administrations and Government Offices in England by DTI (Department for Trade and Industry).

Building Regulations are not devolved to the Assembly Government, however, concerned substantial changes were made to Part L - which relates to the conservation of fuel and power - together with new Approved documents L1 (dwellings) and L2 (other buildings). The aim of these is to further cut the carbon dioxide emissions and the costs of heating and hot water in all types of buildings. For new dwellings the reduction will on average be up to 25%. The changes were published in October 2001 and came into effect on 1 April 2002.

Three further stages of amendments were envisaged up to 2008. The Government has indicated in the Energy White Paper however that a further comprehensive review of the energy efficiency provisions will be started this year with the aim of bringing a further major revision into effect in 2005, and that building standards will be raised over the next decade learning lessons from other comparable European countries. The revision will include implementation of the requirements of the Energy Performance of Buildings Directive.

It needs to be borne in mind that the Building Regulations have evolved from the principles of Nineteenth Century public health legislation, and development control for planning from inter-war and immediate post-war legislation. Having evolved over these considerable timeframes they inevitably now form mature, distinct, albeit essential and often parallel systems of regulation and control for buildings, development and land use. The introduction of one integrated system would therefore be a major legislative and administrative
undertaking which would need to be proven in its practical feasibility, effectiveness, and overall benefit.

Although the two systems often do run in parallel for building developments, their areas of concern can be quite different. However, we accept that as the remit of the Building Regulations increasingly extends its concern with environmental and sustainability issues there may be a case for at least better co-ordination between the two systems at the development control and building regulation approval stage. Better co-ordination of the systems might also be less confusing to the public and deliver a more comprehensive process in terms of overall concern for environmental and sustainability issues. In terms of ‘process’ there might be economies and benefits to achieve in terms of a quicker, more streamlined decision process.

The ODPM has recently commissioned a wider research project to look at the scope and benefits of a single consent regime (which is mentioned in our answer to Recommendation 2). It will also consider whether there is scope for unifying the planning and building regulations consent regimes. The findings of the research should form a substantive basis from which to further examine the potential for better or even full integration of the Town and Country Planning system and the Building Regulations as outlined above.

In the last few years the Building Regulations Advisory Committee (BRAC) has pursued a strategic agenda concerned in particular with extending the remit of the Building Regulations to cover environmental and sustainability issues. An important element of this has been consideration of which regulations might be made retrospective in terms of their application to the existing building stock. The most notable success here has been in the area of conservation of energy where there is a clear vires for the regulations, and where for the first time they have been made retrospective to some degree in their application to the existing building stock (see paragraph *). There is currently only limited vires for dealing with many of the areas of sustainability in the regulations; although ODPM is committed to considering sustainability issues in the context of the Approved Documents (which accompany the regulations) and Regulatory Impact Assessments, and in taking the earliest parliamentary opportunity to rectify the lack of vires.

In considering the extension of the Building Regulations to embrace environmental and sustainability issues BRAC has also commented on the desirability of encouraging joined up thinking with the planning system.

[Recommendation 48] We recommend that the government and devolved administrations include in their guidance to planning authorities targets for the maximum distance any urban household should be from a green space of specified size open to the public. (9.23)

Planning Policy Wales sets out the Welsh Assembly Government’s position by stressing the importance of open spaces as a vital way of fostering integrated communities within existing settlement patterns as part of achieving regeneration and the well being of communities. The Assembly believes that formal and informal open spaces, which have significant recreational or
amenity value, should be protected from development. This is particularly the case in urban areas where they fulfil multiple purposes such as contributing to well being, biodiversity and the protection of groundwater.

The Assembly Government believes that open space standards are best set locally. National standards cannot cater for local circumstances, which have different demographic profiles and extents of existing built development. The guidance requires UDP's to set standards of provision, so that local deficiencies can be identified and met and that open spaces and built facilities are sited, designed and maintained to be integral parts of existing and new developments.

The Technical Advice Notes revision programme is underway and as part of this TAN 16 Sport and Recreation will be revised. We will consider all appropriate aspects raised by the RCEP report when this is undertaken.

[Recommendation 49] We consider production subsidies to agriculture should be phased out as soon as possible. While they remain part of the Common Agricultural Policy (CAP), we recommend that farmers receiving such subsidies should be required to maintain a defined level of environmental protection on the land they manage. We urge the government to take full advantage of the existing scope for cross-compliance under the CAP to support the protection and enhancement of the environment, and to seek to widen the scope for cross-compliance as part of the reform of the CAP (9.32)

The Welsh Assembly Government agrees that subsidies linked to production should be phased out and has long argued that we need to secure a shift in support towards agri-environment and wider rural development measures.

We support proposals from the European Commission - published on 22 January - that, in future, receipt of support payments would no longer linked to production, rather to the meeting of environmental, animal health and welfare and food and occupational safety standards, as well as the maintaining of land in 'good agricultural condition'. We will work closely with Defra to consider carefully the practical implementation of these requirements, to ensure that we are fully involved in discussions in Brussels on this issue.

[Recommendation 50] We believe there is justification for the state to continue payments to rural land managers, including arable and livestock farmers, for achieving well defined, measurable environmental and social objectives. We recommend that the Department for Environment, Food and Rural Affairs and the devolved administrations launch a wide debate on rationalising the support for owners and managers of rural land through the introduction of schemes that serve environmental and, where appropriate, other objectives. (9.34)

The Welsh Assembly Government agrees that continued payments to rural land managers for achieving environmental and social objectives are justified and that these objectives need to be defined and measurable.
In Wales a Rural Development Plan began in 2000 and will run until 2006. This has a budget of £450 million and offers payments to rural land managers and others for a very wide range of social and environmental objectives.

A wide debate on the future of agri-environment schemes has been initiated, by involving a range of partner organisations in the review process. In Wales a consultation is likely to be undertaken shortly on a broad entry level agri-environment scheme.

[Recommendation 51] We recommend the withdrawal of the permitted development rights that currently apply to building conversions and the construction of new buildings, roads and vehicle tracks when these activities are associated with agriculture or forestry. (9.42)

The Welsh Assembly Government will be conducting a review of permitted development rights as part of its ‘Planning: delivering for Wales’ programme, which aims to improve the operation of the planning system in Wales.

We are aware of the research being undertaken by UK Government which is considering all permitted development rights, including those relating to agriculture and forestry to consider whether existing permitted development rights are still appropriate. This research report is expected to be published shortly and the outcomes will inform the Assembly’s own review process.

However, as in England we do not anticipate making any immediate, significant changes to agriculture and forestry permitted development rights. It is considered that permitted development rights facilitate flexible and efficient agricultural and forestry operations, whilst providing safeguards for the countryside. The wholesale withdrawal of these would be likely to increase the regulatory burdens on farmers when they are trying to recover from the crisis in their industry. Such a move would also increase the burdens on many local planning authorities, and would run counter to aims of streamlining the planning system.

[Recommendation 52] We recommend that the impact of new planning guidance on rural diversification is monitored for its effectiveness in protecting the environment and to ensure that it does not block beneficial diversification projects. We also recommend that information is collected on the rate at which diversification is proceeding in rural areas, the quantity and type of employment created and maintained, and the overall environmental impact of diversification including its effect on travel patterns. (9.45)

The Welsh Assembly Government keeps its planning policies under review in order to accommodate changing circumstances. ‘Planning Policy Wales’ issued in 2002 and contains more detailed policy on rural diversification, and in particular on farm diversification, which was informed by research into ‘Farm Diversification and the Planning System’ (2001).
Further research into 'The Rural Economy and the Planning System' (2002) has also been published and its findings will also be taken into account as part of the on-going review of planning policy in Wales.

[Recommendation 53] We call on DEFRA and the devolved administrations to ensure that the rural environment enjoys the best possible protection under the EIA Directive. In particular, they should not hesitate to refuse consent to schemes that would cause significant environmental damage, nor miss such schemes at the initial screening stage. Screening should be carried out by staff with appropriate environmental training using rigorous criteria. (9.49)

As required by the Directive, in operating the EIA Regulations relating to uncultivated land and semi-natural areas, the Welsh Assembly Government is seeking to ensure that significant environmental damage to such areas is avoided.

Implementation is carried out by specialist environmental staff with access to environmental GIS databases. Decisions are made following consultation with statutory consultees, namely, CCW, Environment Agency Wales and Cadw and other appropriate bodies including local authorities and local archaeological trusts.

[Recommendation 54] We recommend that local planning authorities should be added to the list of statutory consultees for environmental impact assessment of intensive agriculture. (9.50)

Before deciding whether a project is likely to have significant environmental effects, the National Assembly consults a range of bodies. In practice local authorities are notified of all screening applications and an opportunity is provided to draw the Assembly's attention to specific environmental information and likely environmental effects.

[Recommendation 55] We recommend that there should be a thorough review of controls on environmental impacts of agriculture. This should include measures for protecting the conservation value of the countryside and for controlling agricultural pollution.

We further recommend that the specialist environmental agencies should co-operate to conduct an independent assessment of the efficacy of the new EIA regulations and the other measures mentioned above in five years' time. (9.53)

We concur with the sentiments behind these recommendations. However, we have yet to make a decision in Wales regarding the timing or scope of reviews of environmental controls on agriculture or the new EIA regulations. The Welsh Assembly Government would ensure that statutory environmental agencies were involved in any discussions and would undertake full consultation with the public and other environmental organisations as part of any review.
[Recommendation 56] We recommend that in future each agricultural holding in the UK receiving public subsidy should be required to prepare a farm plan containing actions to improve the environment which can be readily monitored; and that, to simplify the existing arrangements, all bodies giving grants, exercising regulatory functions or requiring certification of environmental performance should accept the plan as meeting their requirements for information. (9.54)

[Recommendation 57] We recommend that DEFRA move swiftly to bring forward proposals for legislation for a farm plan scheme, following wide consultation, and produce guidance on the format and content of such plans with an emphasis on securing environmental protection and simplifying current administrative procedures. The Rural Payments Agency and its counterparts should have responsibility for all grant payments made pursuant to the plan, including payments made in respect of management of SSSIs or for farm woodland or afforestation schemes. (9.55)

[Response covers recommendations 56 & 57] There are a number of related issues that need to be taken into account including rationalising and streamlining delivery, constraints imposed by regulatory and subsidy regimes, the extent and impact of data protection and privacy laws.

The Welsh Assembly Government is mindful that CAP reforms are likely to have major implications for farmers, including a requirement to keep land in good agricultural and environmental condition. It is therefore premature to endorse the concept of a whole farm plan, until the detail of the agreed CAP reforms has been established. Also, many agri-environmental agreements already contain management obligations and it is important not to undermine this approach.

[Recommendation 58] We recommend that DEFRA and the devolved administrations take the lead in ensuring that sponsor bodies co-operate to make data from the second round of shoreline management plans for the UK publicly available in their entirety through a central point. (9.61)

Coastal groups and other stakeholders have agreed in principle to making data from next round of shoreline management plans available digitally. There is a commitment between those involved with these plans to share data but as yet no firm plans have been made to host or otherwise through a central website. The Welsh assembly Government will be monitoring this closely.
[Recommendation 59] We recommend that planning protection is extended below the high water mark and to the sea-bed. (9.62)

Following the House of Commons Environment Select Committee report on 'Coastal planning and management' in 1992, the Government consulted on 'Development below the low water mark'. It concluded, having taken account of the responses to that consultation, that there was no justification for extending the planning system offshore. It would raise extremely complex legal problems in relation to issues such as the definition of land and of development as well as difficult boundary issues.

However, this issue continues to be raised. The UK Government is leading a review of the regulatory regime for the control of development in coastal and marine waters under the strategy for the conservation and sustainable development of the marine environment set out in 'Safeguarding our seas.' The Assembly is being consulted as part of the review, and is also involved in work being undertaken to develop a national strategy to deliver integrated coastal zone management following the recommendation on this subject that was adopted by the EU on 30 May 2002.

[Recommendation 60] We recommend that allocations for development should not be made until it has been established that water supply and sewerage can be provided in an environmentally sustainable manner. (9.67)

The Welsh Assembly Government recognises that the provision of water services is subject to challenges from urban growth, and this can be acute in certain areas in Wales, and to a variety of other pressures, including climate change. For these reasons it is supportive of increased efficiency and demand management of water resources. The Assembly Government agrees that the provision of both water supply and sewerage in an environmentally sustainable manner forms the basis of sustainable communities.

'Planning Policy Wales' says the supply of water and sewage disposal are capable of being material considerations in planning applications and appeals and in drawing up development plans. New development should be located and its implementation planned in such a way as to allow for the sustainable provision of water services. Early consideration is required of these issues and the development of sites where adequate water supply or drainage provision is unlikely to be achieved should be avoided. 'Planning Policy Wales' also encourages the use of sustainable drainage systems as a means of reducing the impacts of diffuse pollution from urban development.

'Planning Policy Wales' also advises consultation with both the Environment Agency and sewerage undertakers in relation to run-off from development. The revised 'Technical Advice Note 15 Development and Flood Risk' will provide further advice in this respect. Amendments to Part H of the Building Regulations 2000, which took effect from April 2002, introduced a hierarchy of drainage options that gives priority to sustainable drainage systems. The
Assembly is also represented on the Government led group developing a framework, including design standards, which will enable greater use of such systems, with the Environment Agency, local government and industry.

[Recommendation 61] We recommend that all relevant planning guidance contain comprehensive advice on the risks of inland and coastal flooding under current conditions and following a period of climate change.

Planning policy in relation to the risks of inland and coastal flooding is contained in Planning Policy Wales. Climate change is also established as a material consideration. Local planning authorities and others should use the precautionary principle to plan now on the basis of climate change predictions and consider the effects of a changing climate on environmental risks over the life time of new development. In recognition that climate change science is developing fairly rapidly it also says that the Environment Agency and other bodies with relevant expertise should advise local planning authorities as more knowledge and information comes available as to whether climate change will increase the specific risk to areas proposed for development.

We further recommend that the Environment Agency should be made a statutory consultee on flooding issues. (9.70)

‘Planning Policy Wales’ identifies the Environment Agency as having the lead role in providing advice on flood issues, both at a strategic level and in relation to planning applications. It advises consultation with the Agency on these issues and suggests that justifiable reasons should be given for not following the advice of the Agency. All the indications point towards this advice being followed in the majority of cases and there does not seem to be a major requirement for change.

However, the number of statutory consultees is to be reviewed in the light of the planning reform agenda. We shall examine the need to make the Agency a statutory consultee on flooding issues as part of work being undertaken under the ‘Planning: delivering for Wales’ agenda.

[Recommendation 62] We recommend that climate change, its effect on natural resources and the managed environment, the scope for adaptation and the scope for reducing emissions of greenhouse gases is specifically taken into account in spatial strategies, and that planning departments receive guidance and training in dealing with climate change issues. (9.74)

‘Planning Policy Wales’ establishes climate change as a material consideration, and advises that participants in the planning process should consider how climate change is expected to influence environmental risks over the lifetime of new development.

The Assembly will be the lead body responsible for preparation of the Wales Spatial Plan. It is agreed that as part of the aim for sustainable development to
form the basis of all Welsh Assembly Government policies and programmes, climate change may, where appropriate, be considered. The Assembly's wide ranging policy responsibility will help ensure that an integrated approach is taken and that public bodies co-operate in the preparation and implementation of the Plan.

[Recommendation 63] *We recommend that the use of land for agriculture, forestry and countryside recreation should be issues covered in all spatial planning in future.* (10.16)

The Assembly will be the lead body responsible for preparation of the Wales Spatial Plan and it is agreed that where appropriate the Plan should address issues of agriculture, forestry and countryside recreation. The Assembly's wide ranging policy responsibility will help ensure that an integrated approach is taken and that public bodies co-operate in the preparation and implementation of the Plan.

'Planning Policy Wales' sets out the Welsh Assembly Government's policy on planning in the countryside to which local planning authorities should have regard in preparing development plans. The powers available to local planning authorities, the co-operation of other stakeholders and the circumstances and opportunities in each area will dictate where it is appropriate to consider such issues in development plans.

[Recommendation 64] *We recommend the introduction of integrated spatial strategies which take account of all spatially related activities and all spatially related aspects of environmental capacity. They should be four-dimensional, covering the atmosphere and groundwater as well as the land surface, and looking at least 25 years ahead.* (10.21)

The Planning and Compulsory Purchase Bill provides a statutory duty for the preparation of the Wales Spatial Plan. The Wales Spatial Plan is likely to include an outline of the contributions expected from other public bodies, and will set a framework for the preparation of local development plans which will need to be subject to sustainability appraisal and hence consider the impacts of policies and proposals on the environment, including on the atmosphere and groundwater. This approach will be reinforced by the need to comply with the requirements of the European Directive on strategic environmental assessment. However, while we agree with the importance of taking a long-term view on these impacts it will not always be practical to take a 25-year view. Nor must we lose sight of the need to develop and deliver a meaningful strategy within a reasonable timescale.

[Recommendation 65] *An integrated spatial strategy must specify exactly what contributions are expected from local development plans and from the activities of other public bodies.* (10.28)
The Wales Spatial Plan is likely to include an outline of the contributions expected from other public bodies. It will also provide a context for local development plans, but is unlikely to set specific targets for them.

[Recommendation 66] To ensure that all the relevant bodies contribute fully to preparation of the integrated spatial strategy, and are committed to its implementation, it should have a firm statutory basis, and the lead body should be clearly designated. All other public bodies should be placed under a duty to co-operate in its preparation and comply with it where it affects their activities. (10.29)

The Planning and Compulsory Purchase Bill, once enacted, will provide a firm statutory basis for in the preparation and implementation of the Wales Spatial Plan. The Assembly will be the lead body responsible for preparation of the Plan. The Assembly's wide ranging policy responsibility will help ensure that public bodies co-operate in the preparation and implementation of the Plan. The established partnership approach to plan preparation and implementation will be maintained.

[Recommendation 67] We consider there should continue to be rights to object and provision for a public inquiry into a draft local plan or local development framework, on the ground that this kind of public challenge is fundamental to the purpose of the town and country planning system. (10.70)

The Planning and Compulsory Purchase Bill continues to provide for a right for an objector to appear before and be heard by the person carrying out an examination into the soundness of the local development plan document. Whilst the examination will continue to provide for the formal cross examination style hearing, it is anticipated that consideration of soundness will facilitate more informal hearing and roundtable sessions. As at present, contributors will also be encouraged to pursue representations through written procedures.

[Recommendation 68] It should be a statutory requirement that local plans or local development frameworks must comply with the integrated spatial strategy. Wherever appropriate, the policies and targets in the integrated spatial strategy should also be reflected in the community strategy or plan. (10.76)

There are no proposals to require local development plans to formerly comply with the Wales Spatial Plan. When preparing local development plans local planning authorities will be required to have regard to the Wales Spatial Plan. The Assembly will scrutinise local development plans to ensure that proper regard has been had to the Wales Spatial Plan and where necessary make formal representations. In exceptional circumstances, the Assembly may issue a direction requiring a local planning authority to modify their local development plan.
[Recommendation 71] We urge the National Assembly for Wales to publish the promised national spatial planning framework for consultation at an early date. We also recommend that the Assembly take the initiative, in conjunction with the relevant local authorities, in preparing integrated spatial strategies for regions within Wales. (10.80)

The Wales Spatial Plan will be published in Autumn 2003 and will propose ways in which it can be taken forward on a regional basis.

[Recommendation 72] We recommend that regional planning guidance and structure plans should both be converted into integrated spatial strategies with a comprehensive coverage of land use and environmental issues. There should be increasing co-operation between county and unitary authorities to develop integrated spatial strategies for sub-regions where these have greater functional coherence. (10.91)

This recommendation is considered to be specific to the situation in England.

[Recommendation 73] In South East England, the best solution, irrespective of whether elected regional authorities are created in England and given responsibilities for spatial planning, would be to concentrate strategic planning at only two levels: the South East super region (including London) and sub-regions no smaller than the areas for which structure plans are prepared at present. (10.93)

This recommendation is specific to the situation in England.