

POWYS COUNTY COUNCIL – FAQs – CPRW BRECON & RADNOR REPLIES

POWYS LDP: POWYS COUNTY COUNCIL'S RENEWABLE ENERGY ASSESSMENT AND LOCAL SEARCH AREAS FOR WIND AND SOLAR ENERGY (dated 6/3/17)

1. Why has the Council prepared these questions and answers?

The Council is aware of growing public concerns over aspects of the Powys Local Development Plan (LDP) that have come to light during the process, as we approach the Examination of the Plan by an Inspector from the Planning Inspectorate. We want to explain aspects of the process and the reasons why we have undertaken additional work on the LDP.

CPRW: PCC must have meant their own growing concern. The “growing public concern” mentioned in the FAQs on 6/3/17 actually started ballooning from the day the public saw the Agenda for the Cabinet Meeting on 13/9/16 which contained the Further Focussed Changes (FFCs) to the LDP. The Cabinet approved the FFCs, including renewable energy (RE) policy, on 13/9/16 well before the 6 week public consultation on the FFCs lasting from 10/10/16 to 21/11/16. Many aspects of the LDP have only come to light through determined scrutiny and publicity by Powys electors. The process of Examination of the Plan began when the LDP was submitted in January 2016.

2. What is the Local Development Plan and why is it important?

The LDP sets out the principles for development in Powys (outside the National Park) until 2026. When adopted, it will provide the basis for making decisions on planning applications and where certain types of development should or should not be allowed. It sets out the county's need for land for housing, employment and other infrastructure.

CPRW: FFC RE1 did not set out the **COUNTY'S** need for infrastructure. It set out the Welsh Government's aspirations for Powys as translated into an impossible renewable electricity generation target and eleven Local Search Areas by consultants AECOM. AECOM are an organisation with vested interests in maximising renewable energy development. FFC RE1 takes no account of the rural economy and well-being of rural residents. Powys has already received numerous serious complaints about turbine noise, and has a responsibility to residents to protect residential amenity.

3. What is the process for getting the LDP approved or adopted?

The process is set out in the Council's published Delivery Agreement and follows a set procedure prescribed by planning legislation and regulation and the guidelines in Welsh Government's LDP Manual. Each stage in the process has involved obtaining approval from the relevant Council committee. Adoption of the LDP is a decision for Full Council and not the Council's Cabinet.

CPRW: Webcasts, published minutes of meetings and later statements made by Councillors do not confirm that each stage in the process has obtained **INFORMED** approval from the relevant committee. The public do not want a box-ticking decision-making process. We want our elected Councillors to consider what they are approving at each stage and be brave enough to question material put before them.

4. Who will have the final say on the LDP and whether it should be adopted?

The LDP is being examined by an independent Planning Inspector from the Planning Inspectorate and once she has reached her conclusions about whether the Plan is sound, it will come back to the full Council for adoption. So ultimately the new Powys County Council – following the local government elections in May 2017 - will be responsible for approving the LDP. This is likely to be in early 2018.

CPRW: The Powys Council Leader informed the Cabinet on 17/1/17 that they must not refuse the Report on the FFC consultation because this would prolong a period of uncontrolled development in the interim between UDP expiry and LDP adoption. The Council Leader had clearly forgotten the words of Avril York, the previous Portfolio Holder for Regeneration and Planning, who was responsible for the development of the LDP. She told full Council in April 2015:

"The UDP would expire at the end of June 2016 and from then until the LDP was adopted the Council would be reliant on material planning considerations including past precedents, existing policies contained within the UDP and any new evidence based Policies contained in the emerging LDP. The Council would therefore be in a strong position to defend subsequent Planning decisions whilst the LDP is being adopted."

If the Inspector allows the LDP to go forward, the new Powys Council will have the choice of adopting the entire LDP as presented to them by the Inspector or starting the whole LDP process again from scratch. Therefore, it is misleading to suggest that the full Council will have any say over the content of the LDP.

5. What role does Welsh Government have in the process?

Welsh Government produces National Policies, including Planning policies, which should be adhered to. The Inspector, in examining the LDP, will check to make sure the LDP complies with these policies. If the Plan fails to comply with National policy, it will fail the soundness tests. Welsh Government is also a consultee and has responded at every consultation stage about whether it considers whether Powys' LDP meets National Policies or not.

CPRW: Neither the Welsh Government nor PCC can have it both ways. On 29/11/16 Carwyn Jones told the Welsh Assembly that the Welsh Government had not directed Powys Council to amend their LDP and added that *"it's a matter of local democracy that a council can produce its LDP"*. But on 17/1/17 the Cabinet Chair agreed with a Cabinet member that they had been *"dancing to the tune of the Welsh Government"*.

The Welsh Government should not be encouraging an LDP policy which does not provide proper protection for landscape or biodiversity and contravenes its own TAN 8, Well-being of Future Generations Act and Environment (Wales) Act, and also runs counter to recommendations in Natural Resources Wales State of Natural Resources Report 2016. PCC had ample opportunity to justify a stance against LSAs.

6. Why has the Council identified Local Search Areas as part of the Further Focussed Changes (FFCs) to the LDP?

A toolkit produced by Welsh Government (which was revised in 2015) has been used to produce a Renewable Energy Assessment and this toolkit includes this requirement. In addition all local authorities in Wales received a Ministerial letter (in Dec 2015) stating that LDP renewable energy policies should be shown spatially on a map. This position was confirmed in a consultation response from

Welsh Government to the Council. The LDP has therefore been amended to identify Local Search Areas and the wording of the policy (Policy RE1) amended to reflect this. It should be noted that Welsh Government has not 'directed' the authority. Welsh Government does have powers to intervene in the LDP process but has not exercised these powers to date.

CPRW: PCC reminds us that the Welsh Government has not 'directed' the authority and has not "intervened in" the LDP to date. Although government clearly did intervene, in any normal meaning of the word, PCC should have argued its case for protection of landscapes, biodiversity, residents' well-being and the tourism economy instead of accepting extensive LSAs.

7. Why have Local Search Area maps been introduced so late in the LDP process?

The Council was asked by Welsh Government to show the LDP's renewable energy policy spatially in Dec 2015 and March 2016 as explained above. The first opportunity to respond to this request was at the Further Focussed Changes stage in Oct 2016. Other authorities in Wales have also been required to identify Local Search Areas, some such as Gwynedd and Anglesey and the Vale of Glamorgan, were each at a more advanced stage than Powys in the LDP process.

By undertaking this work at this stage, the Council has put itself in the best position to adopt the LDP as quickly as possible. If the Council had not taken this action it is likely that it would have been identified and required by the Inspector as part of the Examination hearing session, thus potentially delaying the process.

CPRW: LSAs have been introduced now because the Welsh Government intervened in the LDP process and PCC had neither the will nor skill to question the RE target calculation or defend the Powys countryside and tourist economy, or insist on a landscape assessment. No other Welsh LPA has simply rolled over in this way.

Is it really worse to have a further period during which the Planning Department must exercise professionalism in controlling a few housing projects than to destroy our best loved hills and valleys for ever? (See 4)

8. Will Powys end up with Windfarms everywhere or covering substantial parts of Powys?

No. Large parts of the county do not have a sufficient wind resource, and there are many constraints to such development across the county. The Council has commissioned further work on the Renewable Energy Assessment (REA) that will be published as soon as possible and this will further inform the LDP.

CPRW: No, because even with the bonus of designated LSAs and whatever other inducements may be in the pipeline, there will still be areas where the developers cannot obtain land-rights or RE development is not economically viable. But there is no doubt that developers will exploit this policy up to the hilt and both our Planning Department and the Welsh Government will consider that designation of LSAs in the LDP is a Material Consideration in favour of approval. We may expect a large increase in approved development.

PCC fail to mention that the extent of development will be largely out of the council's control – see also FAQs 9 and 17.

9. How does this relate to the Strategic Search Areas identified in TAN8?

Welsh Government's Technical Advice Note 8 (TAN8) identifies Strategic Search Areas (SSAs) for placing large-scale wind energy projects of 25 MW and over towards. Local Search Areas relate to the Local Authority scale of development (defined in Planning Policy Wales) and for wind energy are for the 5-25 MW scale of development, and for solar energy for the 5-50MW scale. Welsh Government has asked local authorities to identify these as either 'search' areas or as 'allocations' in their LDPs.

CPRW: A bit rich to have us believe that Local Search Areas for wind energy projects of up to 25MW relate to a "Local Authority Scale". The Planning Policy Wales definition has been lost somewhere along the line. The Welsh Government now determines all wind projects 10MW upwards and, naturally, AECOM's REA recommends building out the largest allowable projects first. Powys Planning will only be allowed to determine smaller projects of up to 4 turbines. The Welsh Government's Technical advice Note TAN 8 actually says of wind development outside the SSAs: *"There may be further opportunities for the development of wind farm or other renewable energy schemes on **URBAN/INDUSTRIAL BROWNFIELD** sites up to 25MW within Wales and these should be encouraged"*.

10. Will Planning applications still need to be submitted for wind energy schemes?

Yes, and these will be subject to the normal planning requirements and constraints. There would be no automatic presumption in favour of development within Local Search Areas; they are the least constrained areas. The purpose of the Renewable Energy Assessment and supporting evidence is to inform the development of the LDP's policies on renewable energy at the high or strategic plan-making level. It does not and cannot consider detailed site specific information which can only be dealt with at the planning application stage. Sites within Local Search Areas may therefore be unacceptable for development for site specific reasons, as reflected in the wording of the LDP policy (RE1). As their name suggests, LSAs are areas for developers to search within and any development application would need to satisfy all planning policy requirements – all policies of the LDP - and all material planning considerations if it were to obtain planning permission. All associated development such as grid lines will also require permission from the appropriate authority. (See also question 9).

Presumption in favour can never be “automatic” because for any application there is always the possibility of powerful overriding considerations derived from other Planning Policies. BUT, as PCC well knows, planning determinations are a matter of balance of material considerations. LDP Policy with targets and LSAs will weigh heavily in the balance so it is both naïve and wrong to say that RE1 policy will not create a presumption in favour.

If there is no presumption in favour, why are the Welsh Government and PCC wasting time and money in designating LSAs to show developers where to search? We think the wealthy, well-informed RE developers, with all their dedicated IT resources, are far more sophisticated than either authority in knowing where to look.

In the answer to this question the council state that LSAs '**are the least constrained areas**'. This is only true for parts of the LSAs, even according to AECOM's inadequate screening process. AECOM identified 'the resource' for wind and solar by looking at wind speed, orientation, a small buffer for housing etc., but then they created the LSAs by drawing much larger shapes around these areas of resource. This means that much of the land that lies within LSA boundaries has already been classified as **unsuitable** for the relevant technology. Some LSAs contain scarcely any suitable 'resource'.

11. What constraints have been considered in the Renewable Energy Assessment?

Welsh Government's toolkit specifies which constraints should be taken into account. In addition, other constraints were raised by objectors on the FFCs so the work that the Council has commissioned will also incorporate additional constraints.

CPRW: The toolkit sets out a number of constraints that require consideration to establish potential siting of renewable developments and the technical viability of sites, including landscape, grid connection, practical site access and land ownership. AECOM, although they wrote the toolkit themselves, omitted all these constraints in their REA. AECOM did draw Powys's attention to the desirability of considering landscape and grid connection, but Powys took no notice. PCC did not pick up the deficiencies and errors in AECOM's REA nor did they see anything wrong with designating a third of the county for renewable development.

12. I thought Powys County Council had vowed to fight windfarms in 2011?

A meeting of Powys County Council at Welshpool Livestock Market in 2011 requested Welsh (and UK) Government for a moratorium on windfarms and an urgent review of TAN 8. The Council's request was rejected by both governments.

CPRW: Nevertheless, the events in 2011 and thereafter left PCC in no doubt of what the Powys public think about protecting their environment for future generations.

13. How do elected members of Powys County Council get their say in the process?

Elected Members have been involved in the development of the LDP since its inception. A Working Group, comprising Members from each of the Shire committees and representatives of the Cabinet, has met frequently as the LDP has been developed. In addition, the LDP has come before both full Council and Cabinet at key stages in the process, to ensure that all Members are aware of progress. Seminars have been held with all members from time to time. The LDP can also be scrutinised at any time by members of the Place Scrutiny Committee. A copy of a Powys Members' Information Bulletin is provided at the end of this FAQ.

CPRW: This is not a question of being "involved" – which could mean anything – it is a question of being "informed" either by careful reading of documents or full and honest reporting by Officers and Portfolio Holders. We do not believe that Cabinet or Councillors have been fully "informed". See, for instance, the miniscule entry in the Portfolio Holder's report to the 13/9/16 Cabinet Meeting which voted in the FFCs to the RE1 Policy. There can be no doubt whatsoever that Council Members were not fully aware of the LDP progress and did not appreciate that the Cabinet had approved an LDP with extensive LSAs in their wards at the time of the "seminar" on 10/11/16. Recently, there has been a concerted leadership effort to use legal quibbles and inflexible deadlines to block any efforts by Councillors to discuss the renewable energy policy in Full Council.

14. How is the public involved in the process?

Involvement from members of the public is an important element of preparing the LDP. At every Consultation stage members of the public have been able to comment on any aspect of the LDP. Every consultation stage has lasted for six weeks and has been publicised in accordance with the Council's LDP Delivery Agreement. There have been considerable numbers of comments made on various aspects of the Plan, some of which have led to amendments of it as it has developed. As we approach the Examination Hearings with the Planning Inspector, members of the public who have objected to the LDP at one of the consultation stages since the deposit stage in 2015 have been offered the choice to speak at the Hearings to air their views on the Plan. The LDP Consultation Report describes the consultation undertaken and responses received at each stage of the process.

CPRW: The greatest scope for public involvement is at the opening stages of LDP development, when strategies for development within the Plan area are being discussed and the public can partake in policy formation by offering critiques of council proposals and suggesting alternatives. Once the LDP is deposited with the Examiner, the public can only address the "soundness" of the plan. They cannot "air their views". Realistic alternatives should have been properly considered by effective community involvement at the pre-deposit preparations stage of the LDP but now we are left with a major new land-management plan whose details will only appear after the Examination Hearings have begun (see also FAQ 15.).

PCC are now proposing that new RE policy will be finished **during** the Examination Hearings process, causing general uncertainty about the order of Hearing Agendas.

We are at a further disadvantage because PCC chose to regard major parts of our CPRW Powys branches' responses to the FFC consultation as "supporting evidence" and so did not publish them on their website. We are still awaiting a resolution of this problem.

15. How does the Examination work?

The Inspector has organised hearing sessions to gather information and aid discussion about the LDP in order to inform her report of findings. She will be applying tests to ensure that the LDP is 'sound'. During the Examination it is anticipated that the Inspector will ask the Council to undertake further public consultation on 'Matters Arising Changes' to the LDP. These are changes that emerge from the discussion at each of the hearing sessions. Following the consultation, the Inspector may decide to hold further hearing sessions to assist her in completing her report.

CPRW: From this answer, we understand that Hearing Session 15 on Renewable Energy will address the revised Renewable Energy Assessment but will **NOT** address the changes in policy. These changes, which are called Matters Arising Changes (MACS) will follow Hearing 15 and then there **MAY** be a public consultation on the MACS. After that, there **MAY** be further Hearing Sessions. Therefore we will have to prepare for Hearing Session 15 without knowing what the revised RE policy will be.

We do not think that the burden placed on the public by this order and timescale is fair and it does not compare to the public consultation process before the Examination begins. This is just one of the reasons why a revision of the REA underlying the FFCs should not be allowed within the examination process.

- 16. What are the implications if Powys County Council does not approve the LDP?**
The Council will not be in a position to approve the LDP until it has received the Inspector's report. There are serious implications for the Council if it were to decide not to adopt the LDP. The LDP sets the strategy and policies for development in Powys over the next 10 years. To not have a plan in place would mean taking planning decisions not based on an LDP that takes account of local needs and has been informed by public consultation and an independent examination. It is not considered that this would be acceptable, although this is a decision for Powys County Council in due course.

CPRW: See 4. Other Welsh Councils have managed years of interim. There will be very serious implications for Powys if they do adopt an RE policy with any resemblance to the FFC RE1 policy. It's really something of a stretch to describe this RE policy as based on local needs or informed by public consultation.

- 17. Who decides wind scheme applications in terms of their proposed size and outputs?**

This has changed recently. For windfarm schemes up to 9.99MW, Powys County Council will decide on these. For Schemes from 10 – 350MW, Welsh Government will decide and for schemes greater than 350MW, UK Government decides. With Solar Energy, Powys decides on schemes up to 49.9 MW, Welsh Government 50 – 350MW and UK decided on schemes over 350MW.

CPRW: See FAQ 9 and note that PCC has little to say about Solar Developments up to 50MW (up to 100 Ha) and their visual and other environmental impacts. In the RE policy land covering 87,000Ha. is designated for Solar LSAs.

- 18. Why are consultants from outside Powys used for this work and what is the process for engaging with them?**

All such work is subject to national procurement rules and advice is provided by our procurement team within the Council. Failure to adhere to the rules would result in action being taken against the authority. A specification is devised and advertised. Interested parties are invited to submit an application and these are then scored against the specification and the bidder that most closely fits our requirements is selected and invited to undertake the work.

CPRW: PCC response to our FOI on this subject did not reveal any numerical scoring system for tenders received and showed that AECOM were engaged in 2011 and then re-engaged in 2016 and 2017 without further tendering. In their response to our FOI, PCC prevaricates about the cost of the 3 jobs allocated to AECOM but we do know that an additional £90,000 has been approved for the LDP for 2017-2018. Residents are helping finance this this fiasco with their Council Tax.

19. I understand they are still doing work – are we paying them for this?

We found that there were errors in the Renewable Energy Assessment (REA) 2016, as identified by some objectors. This is now being corrected by the Council's consultant at no extra cost. In addition, the REA Toolkit produced by Welsh Government, did not cover other aspects – grid connectivity and landscape – so this additional work is underway.

CPRW: At last we have the first admission that AECOM made any mistakes! But there is still no explicit admission that the calculation of 600MW contained very significant errors. Residents were disappointed that the errors they had pointed out were ignored in PCC's report of public responses to the FFC consultation.

It seems Council Tax payers are paying AECOM extra for a grid connectivity and landscape assessment. This is difficult to understand as our FOI response to *"How much money has yet to be paid but is committed to AECOM?"* is *"£0 as of 27/2/17"*.

20. What is the likely impact of the additional work being conducted on the REA?

Although the work is still underway, it is likely that it will lead to a reduction in the number and extent of the proposed local search areas. This work will be published on the LDP examination webpages once it has been completed and the Council will recommend to the Inspector any changes to the LDP as a consequence of this work through its Hearing Statement. The Council is aiming for the additional work to be completed by the end of March 2017 but if it is delayed the Council will inform the Inspector as soon as possible because the Inspector may decide to defer the date of the relevant hearing sessions. If this happens it will be in order to provide objectors sufficient time in which to consider the new evidence.

The greater the reduction the better but we reserve judgement until we see the REA. This does not alter the unacceptable principle of designating more Powys land for industrial scale RE projects when we already have more than our share of Strategic Search Areas.

The LDP FFC RE1 would have slipped through unnoticed into the adopted LDP if a publicity campaign had not been mounted by CPRW together with Powys residents.

21. Did Cabinet approve the FFCs at its meeting on 17th January 2017?

No. The Cabinet considered the comments made on the FFCs (Oct 2016) at this meeting and in doing so agreed that the Council should undertake additional evidence on the REA and the supporting evidence for local search areas. This decision was taken in response to the comments that were received from the consultation on the FFCs.

This correct because the FFCs were approved six months ago on 13/9/16. However, the volume and the nature of public responses to the RE policy reported to Cabinet should have prompted Cabinet to look more closely at the grounds for residents' concerns and to wonder how such a policy had come to be written. The public were extremely disappointed that the Cabinet did not defend their countryside. They were persuaded to approve submission of the Consultation Report on the grounds that delaying the LDP would lead to development mayhem and the Welsh Government had given Powys no alternative. Neither is a good reason for such a sacrifice.

The resolution on 17.1.17 says nothing about an agreement that the Council revise their evidence. The LDP Lead has assured the `inspector that the LDP is "sound" as it stands. If our Barrister had not asked a question at the Pre-hearing Meeting, the "revision" of the REA might never have been mentioned.

It is clear that AECOM remains in the driving seat to tinker with the proposed target and LSAs.

Powys residents deserve a policy which is built around their needs. Instead we find our Council acquiescing in the underhand imposition of a policy which deems arbitrary Welsh Government demands for renewable generation more important than any genuine consideration of the Powys economy, the environment and biodiversity, or of residents and their amenity & quality of life. This policy was specifically designed to turn the beautiful, rural county we love into an industrial landscape.