

Appendix 10A Relevant Legislation and Policy

Presented within this appendix is a summary of those Legislation and policy documents considered relevant to this geo-environmental appraisal on an international, national, regional and local level.

National Planning Policy

Planning Policy Wales sets out the national planning policy framework for Wales and brings the Sustainable Management of Natural Resources (SNMR) report, introduced by The Environment (Wales) Act 2016, into use for the planning system. The key planning principals within Planning Policy Wales relevant to this Chapter include:

'Making best use of resources: *The efficient use of resources, including land, underpins sustainable development. The planning system has a vital role to play in making development resilient to climate change, decarbonising society and developing a circular economy for the benefit of both the built and natural environments and to contribute to the achievement of the well-being goals. The proximity principle must be applied to ensure problems are solved locally rather than passing them on to other places or future generations. This will ensure the use of land and other resources is sustainable in the long term.'*

'Maximising environmental protection and limiting environmental impact: *Natural, historic and cultural assets must be protected, promoted, conserved and enhanced. Negative environmental impacts should be avoided in the wider public interest. This means acting in the long term to respect environmental limits and operating in an integrated way so that resources and/or assets are not irreversibly damaged or depleted. The polluter pays principle applies where pollution cannot be prevented and applying the precautionary principle ensures cost effective measures to prevent environmental damage.'*

The core sections of Planning Policy Wales relevant to this Chapter are: Section 3 'Strategic and Spatial Choices' and Section 6 'Distinctive and Natural Places' and sub sections 'Recognising the Special Characteristics of Places' and 'Recognising the Environmental Qualities of Places'. A number of relevant extracts are presented below:

Section 3.8 *'Landscape and green infrastructure considerations are an integral part of the design process. Integrating green infrastructure is not limited to focusing on landscape and ecology, rather, consideration should be given to all features of the natural environment and how these function together to contribute toward the quality of places.'*

Section 3.9 *'The special characteristics of an area should be central to the design of a development. The layout, form, scale and visual appearance of a proposed development and its relationship to its surroundings are important planning considerations.'*

Paragraph 6.3.4 *'Where adverse effects on landscape character cannot be avoided, it will be necessary to refuse planning permission.'*

Paragraph 6.3.11 *'Planning authorities should provide for the conservation and, where appropriate, enhancement of local landscapes. This may include policies for landscape features, characteristics and qualities of local significance'*

Paragraph 6.3.6 *'In National Parks, planning authorities should give great weight to the statutory purposes of National Parks, which are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for public understanding and enjoyment of their special qualities.'*

Paragraph 6.3.13 *'Geological features are a key part of our natural environment, and protecting geodiversity underpins the wider protection and management of our natural resources, including land availability, renewable energy potential, ground water supply and flood risk.'*

Local Planning Policy

Eryri (Snowdonia) Local Development Plan

The Snowdonia National Park Local Development Plan¹ was adopted by the Snowdonia National Park Authority on the 6th of February 2019. The plan sets out the planning framework for the National Park for the period up to 2031. The Local Development Plan aims to reflect the land use implications of the National Park Management Plan as well as providing an opportunity to deliver the spatial elements of other plans and strategies at the national, regional and local level. The Local Development Plan includes strategic policies and development policies which will deliver the long-term spatial vision for the future of Snowdonia National Park. It provides a consistent set of planning policies covering the whole of the National Park.

The most relevant Core Policies to this Chapter, within the Core Strategy, include the following:

- Development Policy 1: General Development Principles;
- Development Policy 2 Development and the Landscape;
- Strategy Policy D: Natural Environment;
- Strategy Policy E: Mineral Safeguarding Policy;
- Strategy Policy F: Waste.

Anglesey and Gwynedd Joint Local Development Plan 2011 – 2026 Written Statement 31 July 2017

The Anglesey and Gwynedd Joint Local Development Plan was formally adopted on 31 July 2017 and the majority of decisions on planning applications in the two Planning Authority areas are based upon this plan.

The plan states that if national policy is sufficient, no local policies are included. If national guidance requires local interpretation, this is provided in the plan. With regards to this appraisal the local development plan considered six key issues concerning the environment:

- KI 24: Need to mitigate the effects of climate change, e.g. reduce greenhouse gas emissions, promote generating renewable energy and low carbon.
- KI 25: Adapt to the effects of climate change that are forecasted for the years to come, e.g. more floods, increase in sea levels, coastal erosion, storms, periods of hot weather and drier periods.
- KI 26: Reduce the need in the first place for energy and other resources for Developments.
- KI 27: Need to produce less waste in the first place and facilitate re-using and recycling waste along with disposal of residual waste.
- KI 28: Need to protect and whenever possible, improve the natural environment, habitats and species of the area.
- KI 29: Make the best use of the comparatively low levels of brownfield sites in the area along with vacant buildings or those which are underused.

¹ Eryri Local Development Plan Written Statement 2016-2031 (Adopted 2019)..

Part 2A Environmental Protection Act 1990

The contaminated land regime in Part 2A of the Environmental Protection Act 1990 was introduced to specifically address the historical legacy of land contamination. Part 2A of the Environmental Protection Act 1990 (as amended April 2012) introduced the following statutory definition for 'contaminated land':

"Any land which appears to the local authority in whose area it is situated to be in such a condition by reason of substances in, on, or under the land, that:

- a) Significant harm is being caused or there is significant possibility of such harm being caused; or*
- b) Significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused."*

Part 2A provides a means of dealing with unacceptable risks posed by land contamination to human health and the environment. Enforcing authorities are required to identify and deal with such land under other policy and frameworks, Part 2A is only to be used by the Enforcing Authority where no appropriate alternative solutions exists.

The term 'contaminant linkage' indicates that all three elements (i.e. contaminant/ pathway/ receptor) have been identified. A site can only be designated as contaminated land if there is a contaminant linkage and the contamination meets the criteria outlined above. The contaminant/ pathway/ receptor approach is widely accepted in the industry, although it does not take into account less scientific factors such as perceived risk.

The Part 2A contaminated land regime is designed to address the most difficult contaminated sites, where there are no other mechanisms to remediate land and reduce unacceptable risks. The Part 2A regime should not be directly relevant to any site brought forward for development under planning, except that Planning Policy Wales requires that land brought through the planning process should not subsequently be capable of being determined as contaminated land under Part 2A regime. The basis of an environmental risk assessment is detailed within LCRM². This provides guidance on the processes of risk assessment and identification/ evaluation of remediation options. Additional guidance is also provided in the Contaminated Land Statutory Guidance and CIRIA³ guidance.

Water Framework Directive

The European Union (EU) Water Framework Directive 2000/60/EC⁴ provides a system to protect all water bodies including surface water and ground water. Additionally, the Directive states that measures should be implemented to 'prevent or limit inputs of pollutants into ground water' and 'to reverse any significant and sustained upwards trends'.

The Ground Water Daughter Directive 2006/118/EC⁵ sets ground water quality standards and introduces measures to prevent or limit pollutants entering ground water, including those listed within the 'List of Priority substances'.

² Land Contamination: Risk Management (LCRM) guidance document (currently under consultation for feedback)

³ CIRIA (2017) Asbestos in soil and made ground good practice site guide (C765)

⁴ Water Framework Directive (WFD). Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks.

⁵ Water Framework Directive (WFD). Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the Protection of groundwater against pollution and deterioration. Valid from 16-01-2007. (Daughter to 2007/60/EC).

Water Resources Act 1991 (as amended) (England and Wales) Regulations (2009)⁶

The following criteria are used to establish whether significant pollution of controlled waters has occurred:

- Pollution equivalent to 'environmental damage' to surface water or ground water as defined by The Environmental Damage (Prevention and Remediation) Regulations 2015;
- Inputs resulting in the deterioration of the quality of water abstracted, or intended to be used in the future;
- A breach of statutory surface water Environmental Quality Standard, either directly or via a ground water pathway; and
- Input of a substance into ground water resulting in a significant and sustained upward trend in concentration of contaminants.

In England and Wales, the Act gives Natural Resources Wales, as the Environmental Regulator, powers and duties to prevent or remedy the pollution of controlled waters. Previously under the Act and now under the Environmental Permitting (England and Wales) Regulations 2018 it is a criminal offence if a person causes or knowingly permits pollution of controlled water.

Soils

Limited direct regulation currently exists with respect to the protection of soils, although they are indirectly protected by other legislation such as that covering the prevention of pollution and contamination, and for land use planning.

The EU adopted a Soil Thematic Strategy and a proposal for a Soil Framework Directive with the objective of providing protection to soils across the EU in September 2006, although currently no agreement has been implemented.

In October 2007 the Environment Agency launched 'Soil: a precious resource', a strategy for protecting, managing and restoring soil. Intended to help the Environmental Regulators to undertake their roles and responsibilities for soil efficiently and effectively, the strategy highlights the challenges for soil, all of which have relevance for soil management:

- Integrating air, water and soil management;
- Protecting soils in the built environment;
- Understanding soil biodiversity; and,
- Improving the knowledge base and the actions to be taken.

Minerals Safeguarding

The British Geological Survey (BGS), has published a series of safeguarding maps for Wales including the 'Mineral Resources Map of Wales' series and 'Aggregates Safeguarding Map of Wales' series. The information from the maps is taken to form the safeguarding areas for Local Development Plans (LDPs).

⁶ The Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009.