

COUNCIL

9 MARCH 2022

Revised Carmarthenshire Local Development Plan Next Steps and Revised Delivery Agreement

Cabinet Recommendations:

- Provide delegated authority to officers to amend the Revised Delivery Agreement timetable and agree its content with the Welsh Government.
- To consider the content of the report and endorse the need to prepare a consolidated second Deposit Revised LDP and associated documents.
- Grant the Director of Environment in conjunction with the Cabinet Member for Planning delegated authority to establish the Afon Tywi Nutrient Management Board (NMB), develop its terms of reference and prepare a Nutrient Management Plan.
- In conjunction with other key public bodies to join the membership board for the Afon Teifi, Afon Cleddau and river Wye NMB's.

Reasons:

- To comply with the Council's statutory obligations in terms of the preparation and progression of a Revised Local Development Plan for Carmarthenshire, in accordance with statutory procedures.
- To ensure the Plan is supported by the required evidence and that it delivers against a changing economic and social environment.
- To consider the impacts arising from NRW Interim Advice on phosphates in riverine SACs.
- To reflect the Council's legal duties under the Habitat Regulations as transposed into the Conservation of Habitats and Species Regulations 2017 (as amended).
- to ensure compliance with the Authority's duties to enhance the environment under the Environment (Wales) Act 2016 and to support sustainable development objectives in Carmarthenshire.

Relevant scrutiny committee to be consulted NO

Cabinet Decision Required YES 14th February 2022

Council Decision Required YES 9th March 2022

CABINET MEMBER PORTFOLIO HOLDER:- Cllr. David Jenkins

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EXECUTIVE SUMMARY

Council
9th March 2022

Revised Carmarthenshire Local Development Plan Next Steps and Revised Delivery Agreement

1. SUMMARY OF PURPOSE OF REPORT

The report seeks to update on the progress of the Revised Local Development Plan (LDP) and notably the impact and implications of a series of factors, issues and guidance that has, and will have on the progress and/or future content of the Plan. In setting out these areas the report proposes a series of next steps and seeks endorsement on the recommendation to prepare a further Revised Deposit LDP to address and mitigate the implications arising from the issues identified, and to ensure it is procedurally compliant and 'sound', thus enabling its adoption.

The report seeks endorsement to produce an updated Deposit Revised LDP and for officers to prepare a revised Delivery Agreement in conjunction and agreement with Welsh Government with the updated Deposit Plan anticipated to be published for consultation in 2022 with a report presented to Council prior to its publication.

Note: the current adopted LDP will remain in force until it is superseded by the Revised LDP.

2. Background

The preparation of the Revised LDP reflects the Council's statutory responsibilities under the Planning and Compulsory Purchase Act 2004 - setting out policies and proposals for future development and use of land for Carmarthenshire over the period to 2033.

This Report follows the resolution of County Council on the 10th January 2018 to formally commence the preparation of a Revised (replacement) Local Development Plan (LDP). Members will recall that the County Council at its meeting on the 13th November 2019 endorsed the Deposit Revised LDP 2018 - 2033 and its supporting documents (Habitat Regulations Assessment and Sustainability Appraisal) along with two draft Supplementary Planning Guidance (SPG) for the statutory 6-week public consultation. This commenced on the 29th January 2020 and following an extension of over 2 weeks closed on the 27th March 2020.

The above was supplemented by a subsequent 3-week consultation on the Deposit LDP and its supporting documents. This reflected the impact of the closure of public buildings on the

final few weeks of the original consultation and closed on the 2nd October 2020. The consultation responses received along with a series of proposed Focused Changes were considered and approved at the meeting of Council on the 13 January 2021.

Following the above Council approval, the Focused Changes were scheduled for publication in February 2021. However, the publication on the 21st January 2021 of Natural Resources Wales' (NRW) evidence about the environmental impacts of phosphate in watercourses, further to their assessment of the 9 riverine Special Areas of Conservation (SAC) in Wales raised significant issues on the delivery of development and the progress of LDP's in areas affected by the phosphate guidance and prevented the consultation and the Plan making any further progress.

Further details on the implications on the phosphate guidance will be set out in this report.

3. Revised LDP – Key Issues

The following section outlines some of those factors, issues and guidance that have emerged since the publication of the Deposit Plan and will impact on the progress of the Plan or need to be further considered in respect of its content:

- **Phosphates – Impact of NRW Guidance**

On the 21st January 2021, Natural Resources Wales (NRW) published new evidence about the environmental impacts of phosphate in watercourses, further to their assessment of the 9 riverine Special Areas of Conservation (SAC) in Wales. This assessment (based on tighter targets for the water quality of watercourses) established that phosphorus breaches are widespread within Welsh SAC rivers with over 60% of waterbodies failing against the challenging targets.

As a result, NRW issued 'interim planning advice' to avoid further deterioration in environmental capacity. This advice relates to all Riverine SACs whose catchments extend into Carmarthenshire including, the Afon Teifi, Afon Tywi, River Wye and Afon Cleddau.

As a Local Planning Authority, the Council is required to have regard to the advice given by NRW when making planning decisions for both individual developments and Local Development Plans (LDP). Consequently, any proposed development within the river catchment that might result in an increase in phosphate levels will need to clearly evidence that the development can demonstrate phosphate neutrality or betterment in its design and/or its contribution to the river (water body).

In most cases there will be limited capacity to connect to the public sewerage system whereby it would not result in a deterioration. Consequently, an alternative solution will have to be found. This requirement on drainage considerations will impact on all development that increases the volume or concentration of wastewater. In this respect the issues faced are infrastructural as well as environmental, consequently it is a wider multi-agency approach. Further details on the work being undertaken notably by this authority and on the some of the future steps required is set out in the appended report.

A map identifying the extent of the affected area within Carmarthenshire is contained within the appended report. It should be noted at this stage only those areas identified are affected by the interim guidance.

In considering the impact on the preparation of the Revised LDP there are clear implications for its content, and the deliverability of its policies and provisions, as well as its compliance with legislation and national planning Policy and guidance.

The NRW guidance requires a re-screening of the content of the Plan and its proposed allocations and distribution of development under the habitat regulations. In this respect, any proposed development (including each allocated housing, employment etc) within the impacted areas would require consideration through an appropriate assessment on a case-by-case basis. In order for this assessment to be passed the site would be required to demonstrate no impact or neutrality/betterment. It is important to note that at this stage there is no known mitigation upon which many of those identified within the affected areas are likely to pass. The absence of any known mitigation means that any future benefit from mitigation cannot be relied on in undertaking the assessment.

This would inevitably raise clear questions around a number of procedural elements necessary in order for an LDP to proceed to adoption:

1. Compliance with our legal duties under the Habitat Regulations – As Competent Authority the Council has a statutory duty to consider whether a plan or project may have a likely significant effect on a SAC, either alone or in combination with other plans or projects. As Competent Authority the Council must carry out an appropriate assessment for all remaining aspects of the plan or project that it cannot 'screen out'. The identification or inclusion of any development which does not meet the provisions of the Regulations would result in the Plan being found non-compliant.
2. Tests of Soundness – In preparing an LDP it is required to demonstrate its soundness against a series of tests – a key one amongst which is deliverability. In this respect at examination each allocation and the distribution of growth will be required to demonstrate deliverability. The issues around phosphates and the absence of any solutions, investments or mitigation would result in the Plan being found unsound and unadoptable.

The appended Position Paper (Appendix 1 – December 2021) provides a breakdown of the implications on the Revised LDP's growth aspirations and its specific impacts on affected settlements, the creation of new homes and employment opportunities.

These implications are inevitably significant and may require de-allocation of a number of housing sites in the affected catchments. The Authority will not be in a definitive position to know which sites can be retained in the Plan until after additional evidence has been produced including that Dwr Cymru in terms of investments through the future AMP programme.

Proposals and allocations (including Planning applications) outside the identified catchment areas remain unaffected and will be subject to normal planning considerations.

Note: NRW published an update to their interim guidance on the 11th May 2021, the content of which and any future iterations will frame ongoing consideration.

- **Covid-19 Recovery**

The Carmarthenshire Economic Recovery and Delivery Plan (April 2021) sets out the short-term priorities and immediate actions over the next two years that protect jobs and safeguard businesses in Carmarthenshire. It also aligns with the Welsh Government's reconstruction priorities. The report in referencing the challenges faced identifies the pathway to recovering from the economic activity already lost and to generate growth and includes some 30 actions in support of business, people and place. The impact of the pandemic and the effects of Brexit need to be considered in any future amendments to the Revised LDP as do the strategic responses and interventions proposed. In this respect the Plan and its content needs to ensure it reflects the changes in economic and social circumstances.

There is a need to understand and reflect that High Streets and retail activity continue to change and as the effects of Covid-19 and the changes in retail patterns continue, evidence will be required to look at the changing shape of the retail sector and the resultant impact on our town centres. Regard will need to be had to the emerging Recovery Plans for Ammanford, Carmarthen and Llanelli Town Centres as well as the Ten Towns Initiative which emerged from the Rural Task Force.

Future demographic updates on population and household projections will be required and will need to consider the new WG projections alongside a selection of growth scenarios which support various growth outcomes. Indeed, these growth outcomes will need to be considered and align with the Council's Covid recovery and the Housing and Regeneration Objectives.

Further evidence which has regard to the latest projections, the Council's and broader strategic objectives and the implications on the environment and linguistic sensitivities will be required, the implications of which will require consideration and potential changes to the Plan.

- **Net Zero Carbon and Decarbonisation Agenda**

Whilst the Deposit LDP places significant emphasis on the response to Climate Change with a proactive set of policies on a number of areas including electric charging points for vehicles as part of new developments, policies need to be reviewed to ensure they are UpToDate and reflective latest technologies and policy requirements.

Regard will need to be had to the provisions of Future Wales and Planning Policy Wales and ensure the LDP supports a low carbon economy and the decarbonisation of industry. It supports the growth of sustainable and renewable energy to help achieve this goal. The Plan and its evidence will need to ensure it responds appropriately to this agenda and the ambitions in relation to decarbonisation, green recovery, the circular economy and net-zero including the Council's policies and strategies.

In this respect the Council's declaration of a climate emergency in February 2019 saw a commitment to become a net zero Local Authority by 2030. The net zero carbon action plan was endorsed by full Council in February 2020 with the Revised LDP as a key contributor to delivering on its aims.

- **Technical Advice Note 15 (TAN15) and Revised NRW Flood Maps**

On the 28th September 2021 the Welsh Government undertook a soft launch of the latest version of TAN15 ahead of its introduction as policy on the 1st December. This was accompanied by the Flood Map for Planning, which builds on the Flood Risk Assessment Wales map and includes allowances for climate change. These were scheduled to replace the 2004 version of TAN 15 and the Development Advice Map (which does not include climate change allowances), as well as Technical Advice Note 14: Coastal Planning.

However, in her letter of the 23rd November 2021 the Minister suspended the introduction of the new TAN 15 and Flood Map for Planning until 1st June 2023. This was undertaken to enable local planning authorities to consider fully the impact of the climate change projections on their respective areas. The existing TAN 15, published in 2004, and the Development Advice Map will continue in the meantime as the framework for assessing flood risk. In making this provision the Minister states:

“It is imperative that local planning authorities use the suspension to develop a more detailed understanding of the consequences of flooding, and therefore I require every local planning authority to complete work to review, within the next 12 months, the Strategic Flood Consequences Assessments (SFCAs) for their area, either individually or on a regional basis. I also require each local authority, working in partnership with other flood risk management authorities where appropriate to identify a pipeline of priority flood risk management schemes to address flood risk and vulnerability, as well as an assessment and specific assurances on the effective delivery of SuDS Approval Body functions.”

In this respect the SFCA originally undertaken to inform the Revised LDP will need to be subject to substantive review having regard to the above requirements. This additional evidence may also need to consider relocation of infrastructure, site specific resilience measures or new green infrastructure. This will have a direct bearing on the content of the Revised LDP including the identification of sites and will need to be incorporated into its content.

Further details on the required methodology for undertaking this SFCA will be provided by the WG in due course.

It should be noted that this additional SFCA evidence will be required at a corporate level to support and inform the Council’s strategic objectives as well as to provide evidence in support of the Revised LDP.

Regard will be had to the regional context, with opportunities to work alongside neighbouring Authorities in the development of evidence embraced where possible. It should be noted the SFCA originally prepared in support of the Revised LDP was undertaken in partnership with Pembrokeshire County Council. Further detailed evidential work in the Llanelli area was then undertaken by Carmarthenshire County Council. Moving forward, consideration will need to be given as to the intentions of neighbouring Authorities (including those to the East) in respect of the expectations emerging from the Minister’s letter of the 23 November 2021 in regards SFCAs.

- **Future Wales**

Future Wales: the National Plan 2040 was published in February 2021. Whilst the emerging Revised LDP took account of this emerging document, its publication – and subsequent implications – both in terms of the Revised LDP’s spatial strategy / growth and the policy framework requires detailed review.

Note: the requirement to prepare a Strategic Development Plan (SDP) for the Southwest Wales region under the auspices of the Corporate Joint Committee (CJC) may present opportunities to develop strategic evidence at a regional level to ensure consistency and reduce duplication.

It should be noted that the preparation of the SDP is scheduled for commencement in 2022 through the production of a Delivery Agreement setting out the timetable for its preparation. It should be noted that the Revised LDP is required to be in conformity with Future Wales. Consequently, the policies and provisions of the Revised LDP will need to be reviewed where appropriate to ensure they have regard to its content.

Opportunities may also emerge for the development of locally distinctive evidence at community level in the form of Place Plans.

The preparation of the SDP doesn’t impact on the ability to prepare an LDP in parallel and the Revised LDP will be proceeding at an advanced stage compared with the SDP. Reference will need to be had to the emerging content of any SDP where appropriate.

4. Next Steps

The Authority was anticipating progressing to the next stage of Plan preparation in February 2021 including the publication of a set of recommended Focussed Changes following their consideration and approved at the meeting of Council on the 13 January 2021. Whilst these changes sought to address issues and changes in circumstances and guidance at that time, they were considered to be non-substantive and therefore falling within what is considered appropriate as a focused change and recognising that they are exceptional in nature and that changes after deposit should be avoided. In this respect they were identified with a recognition that they would not go to the heart of the Plan.

The scale of overall changes that may now be required to the Plan as a result of the above will in all likelihood now be more significant in number and scope. When considered in conjunction with the Focussed Changes originally proposed, this results in the level of change being higher than that which would be appropriate through a Focussed Changes consultation. As a result, it is recommended that these changes be consolidated into a second Deposit Plan and that this be published for a full public consultation in accordance with regulations.

Whilst this course of action will further delay the final adoption of the Revised LDP, it will ensure that the Authority produces an updated and robust document which reflects the significant contextual changes which have taken place since the publication of the Deposit LDP on the 29th January 2020.

It should be noted that the second Deposit will also be accompanied by a range of documents to support its preparation and the consultation. These will include revised versions (where required) of: Sustainability Appraisal/ Strategic Environmental Assessment, Habitat Regulations Assessment, topic papers, an Initial Consultation Report, and Soundness Self-Assessment, and is underpinned by a range of evidence and other background documents.

- **Phosphates – Nutrient Management Board**

In order to ensure compliance with the Authority's duties to enhance the environment under the Environment (Wales) Act 2016 and to support sustainable development objectives in Carmarthenshire it is considered essential to establish a NMB for the Afon Tywi and to become members on the NMBs for the Teifi, Cleddau and Wye.

Section 8.7 of the appended Position Paper on phosphates provides details on the governance, membership and remits of the proposed NMBs. It should be noted that the establishment of NMB is seen as an important step in addressing the challenges facing these rivers and their communities.

In relation to the Tywi NMB representatives from Carmarthenshire would be Chair and offer Secretariat. This report proposes Cabinet Member for Planning in conjunction with the Director of Environment to establish the Tywi NMB and undertake in conjunction with that board preparation of a Nutrient Management Plan for the Tywi. It is proposed the Board itself will contain those bodies with regulatory responsibility for the condition of the Tywi – CCC (Responsible for local development plans, local planning decisions, environmental health (including monitoring private package treatment works and cess pits) and Sustainable Drainage Approval Body (SAB) consenting sustainable drainage in almost all new development).

Reference is made to Sections 6 and 7 of the appended Position Paper on phosphates which identifies the progress made and the work in progress in tackling the challenges posed by phosphates in the Riverine SACs. It also critically identifies the next steps including the NMBs.

- **Delivery Agreement**

The current Revised Delivery Agreement (DA) was approved by County Council on the 22 October 2020 with Welsh Government (WG) letter of approval received on the 12th November 2020. This sought to reflect the initial impacts arising from Covid-19 and identified the timeline for the preparation of the LDP with Adoption scheduled in July/August 2022.

However, whilst on target for adoption in accordance with the timetable the publication of the phosphate guidance has resulted in the progress of the Plan being held up with resultant slippage. Consequently, it is required that further revision to the DA be prepared and agreed with the Welsh Government.

The amended timetable will however be informed by the factors, issues and guidance highlighted in this report and as such a definitive timeline is as yet not available. To ensure that the preparation of the revised DA is progressed as quickly as possible delegated authority is sought for officers to amend its content and agree a revised timetable with WG officials with the updated Deposit Plan anticipated to be published for consultation in 2022.

Note: this delegation relates to changes to the timetable and not substantive changes to the DA or its community involvement scheme. It should be noted that any consultations timetabled in respect of the Revised LDP will not be undertaken until after the local elections.

5. Financial Requirements

In taking forward the recommendation to prepare a consolidated second Deposit there are essential new and updates to existing evidence as well as production costs. Whilst the majority of evidential work is undertaken internally there are areas where specialist input is required and is provided for through the current financial provisions, the anticipated approximate costs are as follows:

21/22 - £107,000

22/23 - £387,000*

23/24 - £65,000

Specialist staffing, Examination and associated costs are projected as follows (note: this incorporates the potential costs for two Inspectors):

21/22 – £11,000 circa.

22/23 – £44,300 circa.

23/24 - £162,000 circa

24/25 – £134,000 circa

*Includes estimated provision to address strategic issues associated with evidence for phosphate mitigation and solutions as well as the SFCA in accordance with the Ministers letter referred to above which may require additional sources of funding outside those budgeted for LDP production. Note: the requirements of the WG in relation to TAN15 and the SFCA are pending further information.

DETAILED REPORT ATTACHED?	YES
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IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: R Griffiths

Head of Place and Sustainability

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
YES	YES	YES	NONE	NONE	YES	YES

1. Policy, Crime & Disorder and Equalities

The Revised LDP identifies and develops on the links and requirements necessary to ensure the Plan, and the processes in its preparation are compatible with Carmarthenshire County Council's well-being objectives. It also ensures alignment with the national Well-being Goals set out within the Well-being of Future Generations Act 2015. Through its land use planning policies, the Revised LDP will seek to promote the principles of sustainability and sustainable development by facilitating the creation of communities and local economies which are more sustainable, cohesive and provide access to local services and facilities and reducing the need to travel.

The integration of sustainability as part of the preparation of the Plan is reflected in the undertaking of a Sustainability Appraisal and Strategic Environmental Assessment reflecting national and international legislative requirements. This iterative approach ensures sustainability is at the heart of the Plan and that it is reflective of the requirements emanating from the Wellbeing and Future Generations Act 2015 and the Carmarthenshire Well-being Plan: The Carmarthenshire We Want – 2018 - 2023.

The LDP has full regard to the national legislative provisions and will relate and have regard to the Carmarthenshire Well-being Plan. The Revised LDP is assessed against the National and local Well-being Objectives. The Revised LDP will ensure the requirements emanating from the Act are fully and appropriately considered with the Plan, reflective of its duties. In this respect the Plan has been prepared in accordance with the Five Ways of Working through the formulation of its content and its iteration as part of the SA process: long term – The plan sets a framework for land use planning through to 2033 balancing short term needs with those of the long term. Prevention – balancing impacts and the implications of the Plans content. Integration – connects plans, strategies and balancing and measuring the impacts through effective integration. Collaboration – developed through collaboration across the Plan making process with a range of partners. Involvement – reflecting the Plan making's process focus on engagement and involvement, as set out in the Revised Delivery Agreement - Community Involvement Scheme.

Consideration needs to be given to the implications in relation to the forthcoming preparation of Strategic Development Plans within the region and its impact on local planning policy.

2. Legal

The preparation of the Revised LDP reflects the provisions of the Planning and Compulsory Purchase Act 2004, the requirements of the Planning (Wales) Act 2015 and secondary legislation in the form of the Local Development Plan (Regulations) Wales (As amended) 2015.

Its preparation also has appropriate regard to other sources of primary and secondary legislation including the Environment (Wales) Act and the Well-being of Future Generations Act 2015. It must also have regard to the provisions of the Habitat Regulations as transposed into the Conservation of Habitats and Species Regulations 2017 (as amended) and our legal duties as competent authority.

The preparation of the Deposit LDP is in accordance with the 2004 Planning and Compulsory Purchase Act. It is also in line with national regulations and guidance in relation to its scope and content.

Note: The Revised LDP will be required to comply with the provisions of Future Wales: the National Plan 2040 (formerly the National Development Framework) which sets out a high-level spatial strategy for Wales. .

6. Finance

Should the Planning Division Budget not be able to provide further funding necessary to meet the statutory requirements emerging from the specialist input necessary to address the phosphates impacts then an application will be made for a further funding. In addition we will look to share financial burden of such work with partners and seek financial assistance (where applicable) from the Welsh Government as well as maximising grant income (where available). Budgetary provisions within the financial projections within this report have sought to accommodate an allowance for phosphate evidential requirements.

6. Physical Assets

Potential for implications on Council landholdings - the extent and nature of the potential impact to be confirmed.

7. Staffing Implications

Whilst the progression of the Revised LDP will be delivered through current staffing provisions, any delay may require extensions to contracts of those temporary posts in place to support Plan preparation and delivery. Funding would be through current financial provisions and/or future growth items.

Future staffing requirements to address and implement solutions and mitigation associated with phosphates will be subject to future DoR's.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: R Griffiths

Head of Place and Sustainability

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

The relevant Scrutiny Committee will be consulted as part of any future report on the amendments to the Revised LDP and Delivery Agreement.

2. Local Member(s)

Members will be engaged throughout the remainder of the Plan making process.

3. Community / Town Council

Town/Community Councils(s) are a specific consultee at statutory stages throughout the Plan making process.

4. Relevant Partners

Contributions have and will continue to be sought throughout the revision process. A range of partners are identified as specific and general consultees throughout the Plan making process.

5. Staff Side Representatives and other Organisations

Internal and external contributions have and will continue to be sought throughout the Plan making process.

**CABINET MEMBER PORTFOLIO HOLDER(S)
AWARE/CONSULTED**

NO (consultation to take place w/c 31 January 2021 - TBC)

Include any observations here

**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Deposit Revised LDP		https://www.carmarthenshire.gov.wales/home/council-services/planning/local-development-plan-2018-2033/deposit-plan/#.Ya5byaj7SUK
Delivery Agreement		https://www.carmarthenshire.gov.wales/home/council-services/planning/local-development-plan-2018-2033/delivery-agreement/#.Ya5cTKj7SUK
Revised LDP Evidence Base		https://www.carmarthenshire.gov.wales/home/council-services/planning/local-development-plan-2018-2033/development-of-an-evidence-base/#.Ya5ciaj7SUK
Revised LDP Covid-19 Assessment		https://www.carmarthenshire.gov.wales/media/1224020/covid-19-assessment-for-publication-eng.pdf
Sustainability Appraisal and Habitats Regulations Assessment		https://www.carmarthenshire.gov.wales/home/council-services/planning/local-development-plan-2018-2033/sustainability-appraisal-and-habitats-regulations-assessment/#.Ya5c6qj7SUK
Phosphates Webpage		https://www.carmarthenshire.gov.wales/home/council-services/planning/ecology-advice/new-phosphate-targets/#.Ya5dIKj7SUK
County Council meeting 13 of January 2021 (agenda item 7.4 refers)		Agenda for County Council on Wednesday, 13th January, 2021, 10.00 am (gov.wales)