

Report To: Cabinet

Date of Meeting: 27th February 2018

Lead Member / Officer: Cllr Brian Jones, Lead Member for Highways, Planning and Sustainable Travel

Report Author: Angela Loftus, Strategic Planning & Housing Manager

Title: **Response to Welsh Government invitation to prepare a Joint Denbighshire & Conwy Local Development Plan (LDP)**

1. What is the report about?

To agree a response to correspondence (received 14th December 2017 and attached as Appendix 1) from Lesley Griffiths, Cabinet Secretary for Energy, Planning and Rural Affairs inviting Denbighshire County Council (DCC) and Conwy County Borough Council (CCBC) to prepare a Joint Local Development Plan (LDP). The Cabinet Secretary has also made a similar request to:

- Carmarthenshire, Ceredigion and Pembrokeshire
- Blaenau Gwent, Monmouthshire, Newport and Torfaen
- Bridgend, Caerphilly and Rhondda Cynon Taff

2. What is the reason for making this report?

The Cabinet Secretary has requested a 'positive' response from both DCC and CCBC by 28th February 2018 and has made it clear that where Local Planning Authorities (LPAs) ignore this opportunity she will consider whether to use her intervention powers under the Planning (Wales) Act 2015 to direct authorities to produce Joint LDPs. Welsh Government have insisted that all work on the replacement Denbighshire LDP is stopped until the Joint LDP is given serious consideration.

3. What are the Recommendations?

- a) That Cabinet agrees to submit a joint response with Conwy County Borough Council to Welsh Government setting out the Council's preferred approach to progress with producing an individual replacement Denbighshire LDP but with greater collaboration and development of complementary strategies with Conwy. That Cabinet authorises the Leader in consultation with the Head of Planning & Public Protection to agree the final joint response.
- b) That Cabinet acknowledges the risk that the Cabinet Secretary may use her intervention powers and direct DCC and CCBC to prepare a full Joint LDP.

4. Report details

- 4.1 The Denbighshire Local Development Plan (LDP) was adopted June 2013 under the requirements of the Planning & Compulsory Purchase Act 2004. The LDP sets out the Council's priorities for the development and use of land in the County and its policies to implement them over the 15 year plan period 2006 and 2021. The LDP has been

monitored on an annual basis with the publication of three Annual Monitoring Reports (AMRs) to date. Each AMR assesses the extent to which the LDPs strategy, policies and development sites are being delivered.

- 4.2 The Planning and Compulsory Purchase Act 2004 makes provision for two or more local planning authorities to prepare a joint LDP if they so wish. The Planning (Wales) Act 2015 gives Welsh Ministers the power to direct local authorities to produce joint local development plans. Consideration of joint plans is also set out in the Welsh Government's 'Local Development Plan Manual (Edition 2, August 2015)' and White Paper on 'Reforming Local Government: Resilient and Renewed (January 2017)'.
- 4.3 Having an up-to-date LDP is a fundamental part of the plan-led system, in accordance with Section 69 of the 2004 Act, LPAs must commence a review of their LDPs no more than four years following adoption; earlier if the results of an AMR indicate that this is required. The first stage of the review process is to prepare and consult on the LDP Review Report. The Denbighshire LDP Review Report indicated that a full Replacement LDP was required. As per the above legislation the LDP Review Report must consider the preparation of Joint Plans. It was considered that a Joint LDP with Conwy CBC was not the best option, when considering the potential impact on timing and exacerbation of the 5 year housing land supply situation. Differing Council priorities and strategic direction were also seen as hurdles to preparation of a Joint LDP. It was considered that producing individual plans could still achieve savings due to evidence base collaboration and reduced use of consultants. A draft Delivery Agreement for Denbighshire's Replacement Plan was prepared indicating that a new LDP would be adopted by 2021; ensuring that Denbighshire was not left without an adopted development plan and reliant on national policy only. The Review Report and draft Delivery Agreement were subject to a 9 week period of consultation ending on the 20th October 2017, approved by Council on 5th December 2017 and submitted to Welsh Government on 13th December 2017.
- 4.4 It is considered that Denbighshire has an excellent track record in producing the current LDP and had demonstrated its ongoing commitment to the development plan process by completing AMRs on time and submitting the Review Report, together with accompanying detailed Background Papers, within the required timescale. The submission of the Council's Delivery Agreement for the Replacement LDP also demonstrates this commitment.
- 4.5 Despite the arguments indicating there were significant barriers to the preparation of a joint plan made in the Review Report, this has not been accepted by Welsh Government. The Cabinet Secretary has written to both DCC and CCBC inviting a positive response to the production of a Joint LDP by the 28th February 2018. The letter considers that the production of a Joint LDP would not impact on the preparation time, would improve savings, increase staff capacity/resilience and ensure links to the preparation of Strategic Development Plan (SDP).
- 4.6 For Members' information, the Cabinet Secretary has also written to all North Wales authorities inviting the submission of proposals for a North Wales Strategic Development Plan. There is no time constraint in responding to the SDP request. The North Wales Economic Ambition Board and the North Wales Chief Planning Officer

Group will be discussing the invitation in more detail over the coming months and a future report will be presented through the political process.

- 4.7 There is legitimate concern that the delays that have already been caused to the timetable for production of the Replacement LDP through Welsh Government intervention are significant. There is a clear risk that a Joint LDP will take longer than individual plans to produce, especially as it would require the establishment of new joint governance structures; back-tracking to produce, consult on and approve a new joint Delivery Agreement; consideration of joint evidence base matters; development of a new strategy for the new combined area; and agreement from two Councils at key stages of the LDP process, all of which will inevitably lead to significant delays, potentially delaying the adoption of a replacement LDP for over 2 years.
- 4.8 Denbighshire's current LDP (together with related Supplementary Planning Guidance) effectively expires in June 2021 and there is no legal provision for extending the lifetime of the LDP. The production of a Joint LDP would put the Council at risk of not having a replacement adopted LDP in place by 2021. This would leave Denbighshire reliant on national policy and vulnerable to speculative development for some time.
- 4.9 Production of a Joint LDP will require agreement and compromises to ensure the needs of both authorities are met in the resulting LDP, which could result in the dilution of the growth strategy, local issues and policy proposals. The joint approach would result in a larger geographical area to be covered, potentially further distancing officers and work on the preparation of the LDP from local communities.
- 4.10 The opportunities and challenges for the region outlined by the Cabinet Secretary, including capitalising on opportunities along the A55 corridor to deliver growth, ensuring a portfolio of development sites, addressing the resilience of market towns and the rural hinterland and delivering better outcomes on a more consistent basis can be addressed through the production of a Strategic Development Plan for North Wales, providing a clear strategic approach for the region. All six local authorities in North Wales are already committed to strategic land use planning in the region as set out in the North Wales Economic Ambition Board's 'A Growth Vision for the Economy of North Wales'. Work on Denbighshire's replacement LDP will provide a robust basis to feed into the development of an SDP.
- 4.11 Following joint meetings held between DCC, CCBC and Welsh Government, it is proposed that a joint response should be sent to the Cabinet Secretary recommending that DCC and CBCC should produce separate LDPs but increase collaboration on joint evidence base where possible and develop complementary strategies. This ensures that both authorities are working towards a joint holistic strategy once the National Development Framework and Strategic Development Plan are in place. This would provide a positive way forward and ensures that the timing of the replacement LDPs is not impacted. This approach would also allow both authorities to retain local context and existing policies that work well, and would ensure that local Council priorities and strategies are properly considered. The risk of further delay and exacerbation of the 5 year housing land supply position is lessened under this option
- 4.12 This approach would also make use of existing and recently agreed governance arrangements, without the need to establish an entirely new joint governance structure,

with the inevitable time required to do this. This option would also allow for savings to be achieved through joint evidence work. Much has been learned from the first round of preparing LDPs and both LDP teams are more aware of the risks which will ensure that timetables are shortened and LDPs adopted in a timelier manner than previously.

5. How does the decision contribute to the Corporate Priorities?

The relevant Corporate Priorities are:

- Everyone is supported to live in homes that meet their needs
- Communities are connected and have access to services and goods locally, online or through good transport links
- The Council works with people and communities to build independence and resilience
- The environment is attractive and protected, supporting well-being and economic prosperity
- Younger people want to live and work here and have the skills to do so.

6. What will it cost and how will it affect other services?

The costs of undertaking Denbighshire's LDP Review and producing a replacement LDP will be assessed in detail over the coming months. Budget for the review has been accrued on annual basis and will be available for this work.

7. What are the main conclusions of the Well-being Impact Assessment?

A Well-being Impact Assessment has not been carried out because at this stage the report does not seek a decision on a Council policy, strategy or programme. Work on a Replacement LDP will be subject to on-going Well-being Impact Assessment.

8. What consultations have been carried out with Scrutiny and others?

Discussions have taken place with Conwy County Borough Council and Welsh Government and a joint meeting was held on 2nd February 2018.

9. Chief Finance Officer Statement

The costs of progressing with a Denbighshire LDP, whilst collaborating with Conwy on evidence and research and developing complementary strategies, will be assessed in detail over the coming months. There is a specific Council LDP Reserve set-up for this purpose to which the Planning and Public Protection service makes an annual contribution of £20k. This Reserve has been specifically established to help meet the costs associated with any replacement LDP.

10. What risks are there and is there anything we can do to reduce them?

There is a clear risk that the Cabinet Secretary could use her intervention powers under the Planning (Wales) Act to direct both DCC and CBCC to prepare a holistic Joint LDP. The main risk relates to timing and the delay in developing and adopting a replacement LDP. The current adopted LDP effectively expires in June 2021 and there is a significant risk that a Joint LDP would not in place by June 2021. This would mean no local planning policy framework to guide decisions on planning applications with the Council having to rely on national planning policies. Members are aware that Denbighshire does not currently have a 'technical' 5 year supply of housing land, as prescribed in Technical Advice Note 1, delays in the production of a replacement LDP will exacerbate this situation.

11. Power to make the Decision

Local Government Act 2000, Planning & Compulsory Purchase Act (2004), Planning (Wales) Act 2015.