

Report To: COUNCIL

Date of Meeting: 4th June 2013

Lead Member / Officer: Councillor Eryl Williams

Report Author: Graham Boase, Head of Planning and Public Protection

Title: Adoption of the Denbighshire Local Development Plan 2006 - 2021

1. What is the report about?

- 1.1 This report informs Members of the findings of the binding Inspectors' Report into the Denbighshire Local Development Plan 2006-2021; requests formal adoption of the Local Development Plan; outlines the process for monitoring and review of the Local Development Plan and seeks approval to carry forward the current suite of Supplementary Guidance Notes (SPGs) for use with the Local Development Plan. This report is accompanied by a number of appendices which are attached and listed below. Paper copies are available for viewing in the Members' Room.

Appendix 1: Denbighshire County Council Local Development Plan, including Proposals Maps, as amended by the Inspectors' binding recommendations

Appendix 2: Report on the Examination into Denbighshire County Council Local Development Plan 2006-2021 (Inspectors' Report)

Appendix 3: List of adopted Supplementary Planning Guidance Notes

Appendix 4: Adoption Statement

Appendix 5: Sustainability Appraisal Report

Appendix 6: Equality Impact Assessment template

2. What is the reason for making this report?

- 2.1 A decision is required on adoption of the Local Development Plan, the carry forward of current SPGs and the production of new SPGs, infrastructure plan(s), development briefs as necessary and where appropriate prior to the development of the 25 additional sites.

3. What are the Recommendations?

- 1. That the Council formally adopts the Denbighshire County Council Local Development Plan (including Proposals Maps) (attached as Appendix 1), as amended by the Inspectors' binding recommendations (attached as Appendix 2), in accordance with Section 67 of the Planning & Compulsory Purchase Act 2004 and**

Regulation 25 of the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005.

- 2. That the Council agrees to carry forward the list of adopted Supplementary Planning Guidance Notes attached as Appendix 3 for use in the determination of planning applications, pending a full review of all existing guidance.**
- 3. That the Council agrees that SPGs, infrastructure plan(s), development briefs etc as necessary will be required, where appropriate, prior to the development of the 25 additional sites.**

4. Report details.

Background

- 4.1 The LDP is a statutory document, which allocates sites for **potential** development and contains specific policies to guide/control the way development should be carried out. It therefore provides a level of certainty for developers who want to invest in the County and provides the basis for the Council in determining planning applications. It is key to the successful delivery of the Council's corporate priorities of 'Ensuring access to good quality housing' and 'Developing the local economy' by allocating land to meet the County's needs in terms of attracting new employment uses, providing new housing (including affordable housing), establishing community and recreational facilities, improving road and other infrastructure etc. The production of the LDP is therefore a key document in facilitating economic development across the County.
- 4.2 Following agreement at full Council on 20th May 2011, the LDP and its evidence base was formally submitted to the Planning Inspectorate for public Examination. As part of the Examination, Public Hearing Sessions were held in January - February 2012, with additional Hearing Sessions held in May 2012. The Inspectors issued their initial findings regarding housing need & supply on 14th June 2012. This made it clear that whilst they were satisfied with the Council's proposed growth levels; additional housing supply was required in order to meet the Council's own identified future need for housing. In response to this, an additional 21 sites were identified and following consultation Council agreed to submit these sites, together with a phasing policy, to the Inspectors. Further Hearing Sessions were held in February this year, to enable these sites to be discussed and to provide the opportunity for any objectors to present their concerns and evidence to the Inspectors. In total there have been 28 separate Public Hearing Sessions held over a 13 month period during which the Inspectors have heard all the evidence/arguments put forward by the Council and a large number of other interested individuals/organisations for and against a whole host of potential development sites and policies.
- 4.3 The role of the Inspectors was to consider the LDP, together with all the evidence that has informed its development, including comments made as a result of public consultation and the Public Hearing Sessions, and report back

to the Council on whether they consider the Council's LDP to be 'sound'. The Inspectors' report is binding on the Council.

Inspectors' Report

4.4 The Inspectors have now issued their final report on the Examination. The Inspectors' Report comprises a covering report and an appendix setting out a list of all the changes required to be made to the Plan. This is attached as **Appendix 2**. In summary, the Inspectors have found the LDP to be **sound and deliverable**, subject to some amendments.

4.5 In summary the key points raised are:

- Legal requirements and procedural tests have been met.
- The overall strategy and distribution of growth is supported, including the Bodelwyddan KSS.
- The overall housing figure of 7,500 dwellings is supported but additional housing allocations are to be included to increase the land supply. These are the 21 sites proposed by Council plus four sites included in the earlier consultation (March/April 2012) which were not proposed for allocation by Council. These four sites are:
 - Land off The Paddock, St Asaph
 - Bryn Gobaith, St Asaph
 - Ffordd Hendre, Meliden
 - Rear of Castle View & The Hollies, Llangollen
- The Council's proposed phasing policy for the development of the additional sites has **not** been included in the plan.
- A minimum density requirement of 35 dwellings per ha is to be included. This will not apply to villages and a small number of individual sites.
- Amendments to the Affordable Housing policy:
 - Developments of 10 or more dwellings will make on-site provision of 10% affordable housing
 - Developments of 3-9 dwellings will make a financial contribution
 - The above requirements will be increased once sale prices are 10% and 20% above 2009 prices.
- The Area of Outstanding Beauty (AOB) is to be partially removed from the proposals maps and not afforded the same level of protection as the Area of Outstanding Natural Beauty (AONB).

Whilst there has been some disquiet amongst Members at the inclusion of additional sites and the exclusion of the phasing policy, it is clear from the Inspectors' Report that without these changes the LDP would not have been considered sound.

4.6 The Inspectors' report has been made available for viewing via the Council's website and paper copies deposited in all the Council's libraries and one-stop-shops and Bodelwyddan Community Centre. Copies are also available in the Members' Room.

Adoption

- 4.7 The Council is required to adopt the LDP as amended by the Inspectors' binding report by a resolution of the Council and this must be done within 8 weeks of receipt of the Inspectors Report (Received 26/04/2013). Should the Council not agree to adopt the LDP, Welsh Government does have the power to intervene and approve the LDP on the Council's behalf. Welsh Government also has the power to intervene at any stage in the process up to the Council formally adopting the Plan if there is the view that the LDP/Inspectors Report is technically unsatisfactory. The amended LDP is attached as **Appendix 1**. The LDP will become operative on the date it is adopted by the Council and therefore will be used for **guiding** planning decisions from that date. The adoption of the LDP is therefore the adoption of an important, high level, strategic Plan. None of the development sites contained within the Plan are granted planning permission by virtue of adopting the Plan. Before any development can take place each site must be subject to the submission of a formal planning application and its careful consideration by the Council. If the Council is unhappy with the details of any such planning application it is entirely within its power to refuse the application planning permission. Grounds for such refusals can be strengthened by the adoption of SPGs, infrastructure plan(s), development briefs etc as necessary requiring sites to provide required infrastructure. On adoption of the LDP the Denbighshire UDP will be superseded and cancelled. Once adopted the Council must post a public notice in the local newspapers and notify those people who have requested to be kept informed, directing them to the Adoption Statement (attached as Appendix 4).
- 4.8 Without an adopted LDP the Council will find it difficult to control the level and extent of development in the County, i.e. it would be difficult to resist planning proposals on sites not included in the Plan, because of a lack of sufficient housing land supply. Not adopting the Plan will therefore encourage those promoting sites that were not included in the Plan to submit planning applications for their development. It would also be more difficult to refuse sites contained within the unadopted Plan on matters of detail, including necessary infrastructure requirements as there would be no associated SPGs, infrastructure plan(s), development briefs etc, as necessary, and where appropriate for the addition 25 sites.
- 4.9 If the Plan is adopted any development proposals for sites allocated will therefore still be subject to the usual considerations at the planning application stage. A number of the additional 25 sites **will** rely on the provision of new infrastructure to be delivered and it is proposed that a detailed assessment of infrastructure requirements, together with an associated SPG, infrastructure plan(s), development briefs etc as appropriate be produced as and when required prior to the development of those sites. The phasing policy put forward by the Council was designed to regulate the release of housing sites. The Inspector did not accept this policy, however the approach proposed would allow the Council to have some control over the delivery of development. Without adequate provision for infrastructure, development proposals would be refused planning permission, a decision that will carry more weight with an adopted LDP, than without an adopted LDP. Members will therefore still have the final say in terms of granting planning permission

for any of the sites allocated in the plan after careful consideration of the details of the proposals.

- 4.10 An adopted LDP will provide a robust, up to date framework to allow the Council to guide and control future development in the County, together with allocating land to meet the County's needs for new housing, employment, etc. The Inspector has found the Plan 'sound' and has agreed with the majority of the Council's policies. Councillors undoubtedly have concerns about the addition of further sites and lack of a phasing policy. However, control over future development can be properly exercised through the adoption of the LDP and the development and use of infrastructure plans and site development briefs to be adopted as SPG. It is therefore recommended that Council adopt the LDP.

Monitoring and Review

- 4.11 Once adopted the Council must submit an Annual Monitoring Report on the LDP to Welsh Government. This will examine whether the Plan's policies are working and whether any policies need to be reviewed. The Council must review the Plan 4 years after adoption. A review could result in a full or partial change to the Plan, or no change at all. Any elements changed will be the subject of a public consultation, a formal decision by Members and any subsequent examination.

Supplementary Planning Guidance

- 4.12 The Council has a series of adopted SPG notes which were prepared to supplement policies contained within the UDP. A list of adopted SPGs is included in **Appendix 3** to this report.
- 4.13 In order to ensure conformity with LDP policies (and changes in other policy/legislation), a review of each of the existing SPGs will be carried out as soon as is practicable following adoption of the LDP. In the interim, it is proposed that these be carried forward for use in the determination of planning applications. Additional SPGs, infrastructure plan(s), development briefs etc will also be required as soon as is practicable following adoption of the LDP.

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

- 5.1 The LDP will have a direct role to play in achieving the priorities of 'Developing the Local Economy' and 'Ensuring Access to Good Quality Housing' through the policies and proposals within it, influencing development on the ground.

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

- 6.1 The vast majority of costs in progressing the LDP have already been incurred. Having an adopted LDP will impact positively on most services in the Council given that it is a key strategic document that will promote economic development throughout the County. Failure to adopt the LDP will undoubtedly have further and potentially significant cost implications to the Council

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.

7.1 The completed EqIA template is attached as **Appendix 6** to this report. This concludes that an EqIA is not required for adoption of the LDP. An EqIA was previously carried out on the content of the LDP and reported to Full Council in May 2011.

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

8.1 The LDP has been developed through extensive consultation and all representations received have been passed on the Inspectors and have been considered by them. The public Hearing Sessions have enabled those invited to present their evidence verbally to the Inspectors.

9. Chief Finance Officer Statement

The costs associated with progressing the LDP should be contained within existing resources. The Council has a specific reserve within the accounts to contribute to the costs of producing the Plan should additional funding be required.

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

Under Section 113 of the Planning & Compulsory Purchase Act any person can challenge the validity of the LDP on the grounds that it is not within the appropriate power or that requirements in Part 6 of the Act or the LDP regulations have not been complied with. In such circumstances an application can be made to the High Court and this must be made within 6 weeks of the publication of the adoption notice. The risks associated with not agreeing to adopt the LDP are outlined in the body of the report above.

11. Power to make the Decision

11.1 Local Government Act 2000, Planning & Compulsory Purchase Act (2004), and associated regulations and guidance.