



SPECIAL COUNCIL - 1ST DECEMBER 2009

SUBJECT: CAERPHILLY COUNTY BOROUGH DEPOSIT LOCAL DEVELOPMENT PLAN UP TO 2021: COUNCIL CONSIDERATION OF REPRESENTATIONS (FOCUSED CHANGES)

REPORT BY: DIRECTOR OF THE ENVIRONMENT

1. PURPOSE OF REPORT

- 1.1 The purpose of this Report is to outline the representations made on the Council's Focused Changes to the Deposit LDP.
- 1.2 To provide a Council response and recommendations in respect of each of the issues raised through the consultation exercises for consideration by the Planning Inspector.
- 1.3 To provide members with information regarding the next stages of the plan preparation process.

2. SUMMARY

- 2.1 The Caerphilly County Borough Council Local Development Plan (LDP) provides the strategy and policy framework for the development and conservation of the County Borough for the fifteen-year period, from 2006 to 2021.
- 2.2 On 15th September 2009 Council resolved to make a series of Focused Changes to the Deposit LDP for the purposes of a formal six-week public consultation process that was carried out in September / November 2009.
- 2.3 The report provides an overview of the representations received during the six-week consultation exercise, and outlines the next stage of the plan preparation process for members information.
- 2.4 Particular attention is drawn to the request by the Planning Inspector for an Exploratory Meeting to be held on the 8th December 2009 to discuss issues of concern. A variety of implications could flow from the deliberations of the Inspector at the Exploratory Meeting, the most serious outcome would be a recommendation that the plan be withdrawn.
- 2.5 In addition attention is drawn to the response of the Welsh Assembly Government, which states in relation to 10 site-specific changes that: "These 10 proposed changes have been made against officer recommendation without any planning rationale having been provided. We consider that these changes must be unsound."

3. LINKS TO STRATEGY

- 3.1 The Deposit LDP embodies the land-use proposals and policies of the Council, including those contained in the Community Strategy and other strategic policy documents. The Unitary Development Plan (UDP) is currently the overarching land-use policy statement of the Council. This will be replaced by the LDP in due course.

4. THE REPORT

BACKGROUND

- 4.1 The Caerphilly County Borough Council Local Development Plan (LDP) provides the strategy and policy framework for the development and conservation of the County Borough for the fifteen-year period, from 2006 to 2021.
- 4.2 On 15th September 2009 Council resolved to make a series of Focused Changes to the Deposit LDP for the purposes of a formal six-week public consultation process that was carried out from 23rd September up to 4th November 2009.
- 4.3 Members are requested to note that procedurally the Council is not required to respond to the representations received at this stage of plan preparation, however the Inspector has requested our views on them. Copies of the representations have been submitted to the National Assembly and Planning Inspectorate for consideration in advance of this report being considered by Council.
- 4.4 In order to keep members informed of public opinion in respect of the Focused Changes and in line with previous good practice, officers have provided a written response to the issues raised by all of the representations received during the Focused Changes public consultation exercises.

CHANGE IN GUIDANCE ON THE STATUS OF FOCUSED CHANGES

- 4.5 Paragraph 4.31 of LDP Wales (December 2005) states:
“Any proposed changes suggested by the authority at this stage do not constitute formal changes to the plan. If any changes are upheld at examination, they will be identified as changes in the Inspector’s report.”
- 4.6 Since officers reported to Council in September 2009, this national guidance has been supplemented by procedural guidance produced by the Planning Inspectorate for Wales in November 2009. Paragraph 17 of this guidance states that:
“The Inspector will make clear the status of (any) addendum and whether he/she will accept it as part of the submitted plan at the Pre-Hearing Meeting (PHM). Provided the addendum has been the subject of consultation and revised SA (if necessary) it will be accepted as part of the submitted LDP. The LDP and addendum would be read together and be the starting point for consideration of soundness.”
- 4.7 This supplementary guidance appears to afford significantly more weight to the Focused Changes within the Examination process than LDP Wales. Most notably the PINS guidance indicates that the LDP and the Focused Changes will now be the starting point for consideration of soundness.

PLANNING INSPECTOR CONCERNS

- 4.8 The Planning Inspector has commenced his examination of the Deposit LDP and in doing so has raised concerns (November 12th) that *“the Council’s explanation and justification for a number of the proposed Focused Changes is simply that it is in line with the Council Resolution of 15 September 2009.”* In addition the Planning Inspector has indicated that a number of the focused changes plainly do not meet the requirements of WAG guidance specifically paragraphs 4.29 and 4.30 of LDP Wales in respect of soundness.
- 4.9 The focused changes referred to are generally those that arose from discussions in the Council meeting that were contrary to the recommendations of the LDP Focus Group or of Officers. It is important going forward to examination that all policies and proposals are demonstrably sound.

- 4.10 Members should be aware that a variety of outcomes could flow from the assessment of soundness undertaken by the Inspector. **The most serious outcome would be a finding of unsoundness leading to a recommendation by the Inspector that the plan be withdrawn.**

EXPLORATORY MEETING

- 4.11 Following his initial appraisal of the submitted LDP and accompanying evidence base, the Inspector has identified key concerns that he considers raise significant issues, which may affect the soundness of the plan. In order to explore these issues the Inspector has now written to the Council (19 November) to inform us that he has called an Exploratory Meeting for 10 a.m. on the 8th December 2009. The Exploratory Meeting is a formal meeting between the Planning Inspector, the Council and the Wales Assembly Government. The Planning Inspector has asked that three areas of concern be discussed at this meeting as follows:
- the implications of certain of the Council's proposed Focused Changes, for which no planning rationale has been put forward and the implications for the soundness of the Plan;
 - matters concerning the target for delivery of affordable housing by the Plan and how the Plan seeks to achieve this;
 - site availability and cross-border matters concerning delivery of Plan proposal WM1.1 Cwmbargoed Washery – possible site for waste management facility serving more than one local authority area.

REPRESENTATIONS TO THE FOCUSED CHANGES TO THE DEPOSIT LDP

- 4.12 Altogether 122 representations were received to the Focused Changes from organisations, bodies and individuals, comprising 8 representations of support, 36 representations of objection, and 66 representations containing comments. 12 representations were not duly made as they were submitted after the consultation deadline or did not relate to a focused change.

MAIN AREAS OF CONCERN

- 4.13 Appendix 1 and the accompanying report of consultation identifies the issues raised in the consultation process, indicates the names of those who made representations, outlines all the representations made and provides the officer response to those representations.
- 4.14 The representations received in respect of the Focused Changes relate mainly to the following areas:
- Concerns related to the Viability Assessment undertaken by the Council resulting in the focused changes to the Affordable Housing Target for the LDP;
 - The Cumulative impact of the housing site deletions and the impact on the housing land supply;
 - Site Specific Focused Changes that threaten the soundness of the Deposit LDP; and
 - Landowners suggesting that as a consequence of the deletion of housing sites from the Deposit LDP, alternative sites should be included to compensate for the loss of housing land.
- 4.15 Particular attention is drawn to the response of the Welsh Assembly Government, which states in relation to 10 site-specific changes that: "These 10 proposed changes have been made against officer recommendation without any planning rationale having been provided. We consider that these changes must be unsound." In addition the Planning Inspector has indicated that a number of the focused changes plainly do not meet the requirements of WAG guidance."

- 4.16 Representations have been forwarded to the Welsh Assembly Government for information and to the Planning Inspectorate for consideration.

CONSIDERATION OF REPRESENTATIONS

- 4.17 In light of the representations made during the six-week public consultation exercise, Members are asked to consider whether to maintain or withdraw the Focused Changes to the Deposit LDP. In doing so it should be noted that under Part 4 of the Rules of Procedure (*Caerphilly County Borough Council Constitution Amended on 16 May 2007*) a motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless:

(a) by way of notice of motion signed by at least thirty seven members

(b) significant new information relevant to the matter was not available when the matter was first discussed, which if available would materially have affected the consideration of the issue.

- 4.18 The Special Council Meeting to consider representations to the Deposit LDP was held on the 15th September 2009. Since that time significant new information relevant to the preparation of the LDP is available which could have materially affected the consideration of the issues in hand, namely:

- The Welsh Assembly Government has indicated that in its view a number of the focused changes recommended by Council would materially affect the soundness of the Deposit LDP if they were to go forward. It is vitally important to note that if the Planning Inspector concurs with this view then as indicated above this could lead to a recommendation by the Inspector that the plan be withdrawn.
 - The Council could not consider the cumulative impact of the decisions taken at Council on the meeting on the 15th September and this is the first opportunity to consider what the cumulative impact on the soundness of the plan would be as a result of decisions made at that meeting.
 - The Welsh Assembly Government has strongly objected to the proposed deletion of the Aberbargoed Plateau Site from the Deposit LDP and has provided an indication of the significant level of public investment (circa £40m) that has been directed at the area in recent years. Significantly they have indicated that they regard the identification of the Plateau area for residential development as representing one of the significant linchpins in the comprehensive redevelopment of Greater Bargoed area and question the planning rationale for its deletion; and
 - Officers have now had an opportunity to undertake some preliminary investigative works to determine the financial implications of a number of the focused changes (refer to Agenda Item 1). This information could materially affect the Council's ability to deliver those land allocations identified as focused changes.
 - New Guidance has been issued by the Planning Inspectorate for Wales, which affords the Focused Changes more weight in the examination process.
- and finally
- An exploratory meeting has been called by the Planning Inspector to discuss the implications of certain of the Council's proposed Focused Changes, for which no planning rationale has been put forward and the implications for the soundness of the Plan amongst other matters.

CHANGES TO A SUBMITTED LDP

- 4.19 Paragraph 5.24 of the procedural guidance produced by the Planning Inspectorate for Wales in November 2009 indicates that the LPA should not seek to make changes to the plan after submission. However paragraph 5.25 goes on to state that: "*Changes after submission*

should be at the instigation of the Inspector in response to concerns that he/she raises with the LPA.” Given that the Inspector has formally raised concerns with the Council regarding certain focused changes it is considered appropriate that the Council reconsiders its position in this respect, prior to the Exploratory Meeting on the 8th December 2009.

NEXT STEPS - EXAMINATION

- 4.20 The Deposit LDP was formally submitted to the National Assembly and the Planning Inspectorate for examination on 7th October 2009. The Planning Inspectorate has appointed Mr Alwyn Nixon BSc, MRTPI as the independent Inspector to preside over the Examination.
- 4.21 The function of the examination is to assess the soundness of the submitted LDP as a whole rather than simply considering individual objections. It is intended that the examination should be a quick and efficient part of the overall process. The period from submission to issue of the Inspector's Report should take no more than 12 months.
- 4.22 The Pre Hearing Meeting is to be held on the afternoon of the 8th December 2009 at Ty Penallta and the Hearing Sessions are scheduled to take place in the Rhymney Room from 2nd February 2010. It is important to note however that this timetable could be adversely affected by the outcome of the Exploratory Meeting.
- 4.23 The Hearing Sessions form an important part of the examination process. The emphasis at the hearing sessions will be on informality with the Inspector exploring and leading a debate on the issues identified in advance. The Inspector will invite participation from those who wish to be heard and anyone else who might be required to properly explore the relevant issue.
- 4.24 It is envisaged that the Hearing Sessions will last for approximately 6 weeks. The hearing programme will be intensive and focused and as such it is anticipated that the Inspector will usually sit for an intensive 3 days a week to allow adequate preparation time between sessions. The Inspector will announce at the end of the last hearing session the expected date of delivery of the report to the Council. In addition he may choose to hold a brief rounding-up session at the end of the last hearing day with the Council and other representors. This will be an opportunity for interested parties to discuss how the hearings have been organised and run.
- 4.25 It is important to note that the examination remains open whilst the Inspector is writing the report and he may hold further sessions during the reporting period. This option will be exercised only if absolutely necessary e.g. where a fundamental soundness issue has not been resolved.
- 4.26 The Programme Officer, Mrs Barbara Prosser is the Inspector's main point of contact for all procedural matters.

5. FINANCIAL IMPLICATIONS

- 5.1 The costs involved in the production of the Deposit LDP, are necessarily incurred in carrying out the statutory procedures governing the preparation of a Local Development Plan.
- 5.2 The potential cost of including housing sites within the LDP for alternative land uses such as Hawtin Park, Pendinas Avenue etc has been outlined in Agenda Item 1.
- 5.3 The potential cost of sites being removed from the plan, for example St Ilan and Aberbargoed Plateau clearly has a financial implication in terms of the capital receipt from the sale of the land where the site is in Council Ownership. At current land values the Council could expect to receive in the region of approximately £1.15m per hectare for housing sites in the more attractive housing market areas.

5.4 Members should also be aware that a variety of implications could flow from the deliberations of the Inspector at the Exploratory Meeting, the most serious outcome would be a recommendation by the Inspector that the plan be withdrawn. This could have serious financial implications if the Council was instructed to return to pre-deposit stage.

6. PERSONNEL IMPLICATIONS

6.1 None

7. CONSULTATIONS

7.1 All comments received have been incorporated in this report.

8. RECOMMENDATIONS

8.1 That the Council consider each of the issues raised through the consultation exercise outlined in Appendix 1 of the report and in the *Council Consideration of the Representations to the Focused Changes Report* and determines the specific recommendation to go forward to the Planning Inspector on each Focused Change.

9. REASONS FOR THE RECOMMENDATIONS

9.1 To facilitate the preparation of the Caerphilly County Borough Local Development Plan in accordance with planning guidance and regulations.

10. STATUTORY POWER

10.1 The Council as local planning authority has a statutory duty to take these actions under the Town and Country Planning Acts and associated Regulations and Guidance.

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Phil Griffiths, Principal Planner Responsible for SA/SEA

Background Papers:

Supplementary Papers to Background Paper 6 Population and Housing

- BP6 Supplementary Paper 1: WAG 2006 Based Population & Household Projections
- BP6 Supplementary Paper 2: Housing Site Categorisation Exercise
- BP6 Supplementary Paper 3: housing Land Supply
- BP6 Supplementary Paper 4: Affordable Housing Viability Assessment
- BP6 Supplementary Paper 5: Affordable Housing Targets

Council Consideration of Representations Report – 15th September 2009