



## **COUNCIL - 19TH JULY 2016**

**SUBJECT: DEPOSIT REPLACEMENT CAERPHILLY COUNTY BOROUGH  
LOCAL DEVELOPMENT PLAN UP TO 2031**

**REPORT BY: CORPORATE DIRECTOR - COMMUNITIES**

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### **1. PURPOSE OF REPORT**

- 1.1 To provide an overview of the representations made by interested parties/people to the public consultation exercise undertaken in February and March 2016 in respect of the Deposit Replacement Caerphilly County Borough Local Development Plan up to 2031 (Deposit Replacement LDP).
- 1.2 To outline the Welsh Government response to the Deposit Replacement LDP and provide an officer response to the issues raised.
- 1.3 To consider the appropriate way forward having regard to the following factors:
  - (i) The issues raised through the public consultation exercise;
  - (ii) The recent commitment by the Council to discuss the prospect of a strategic development plan as detailed in the Cardiff Capital Region City Deal (signed March 2016);
  - (iii) A recent invitation from Rhondda Cynon Taff to prepare a Joint Local Development Plan.

### **2. SUMMARY**

- 2.1 On 3 February 2016 the Council approved the Deposit Replacement Caerphilly County Borough Local Development Plan up to 2031 for the purposes of a statutory six-week public consultation process. The deposit consultation period began on 11 February 2016 and was proposed to end on the 23 March 2016. However the consultation period was extended to run up to the end of the 22 April 2016 when it was noted that one of the Appendices of the Habitat Regulation Assessment was omitted from the documentation that was made available on the LDP web page.
- 2.2 In total 4,654 individuals and/or organisations submitted comments during the statutory consultation period and five notable petitions were received in terms of numbers. It is important to note that these are representations that offer comment in respect of aspects of the plan and also representations of both support and objection. As part of the consultation process a response was received from Welsh Government and a background paper has been made available in the Members Library which provides a detailed officer response in respect of the issues raised by WG.

2.3 An officer response and recommendation in respect of the issues raised from the consultation is currently scheduled to be reported to Council in November 2016 when the Report of Consultation will be considered.

2.4 However, prior to determining the appropriate way forward to address key objections from the consultation, Members should consider and debate a number of related matters, specifically:

- The rapidly changing regional context and growing momentum for the need for a strategic development plan for the region;
- A formal request from Rhondda Cynon Taff to prepare a Joint Local Development Plan; and
- The need to undertake a second consultation in respect of the evidence underpinning the delivery of the two proposed Strategic Sites in order to address WG concerns.

2.5 The report outlines two specific options and the implications of both for Members to consider, as follows:

- Option 1 – Undertake a second public consultation exercise i.e. a second deposit; or
- Option 2 – Subject to Ministerial approval, formally withdraw the Deposit Replacement LDP and seek further discussions with WG and the local authorities within the Cardiff Capital Region regarding the possible development of a strategic development plan.

2.6 Having considered both options fully, the report recommendations are as follows:

- To consider the content of the report and in particular the implications associated with the alternative options for progressing work on the development plan for Caerphilly County Borough;
- Seek further discussions with WG and local authorities within the Cardiff Capital Region regarding the possible development of a strategic development plan;
- Subject to Ministerial Approval, formally withdraw the Deposit Replacement Caerphilly County Borough Local Development Plan up to 2031;
- Seek an urgent meeting with the WG Minister to advise of the intention to withdraw the Deposit Replacement LDP and seek support for the preparation of the SDP as a matter of urgency, and also discuss the importance of WG funding to help “unlock” brownfield sites across the county borough.

## 2.7 **GLOSSARY OF ACRONYMS, ABBREVIATIONS AND TERMS**

CIS	Community Involvement Scheme
DA	Delivery Agreement (Update December 2015)
HRA	Habitats Regulations Assessment
LDP	Caerphilly County Borough Local Development Plan up to 2021
Deposit Replacement LDP	Deposit Replacement Caerphilly County Borough Local Development Plan up to 2031
RoC	Deposit Replacement Caerphilly County Borough Local

	Development Plan: Report of Consultation'
SA	Sustainability Appraisal
SDP	Strategic Development Plan
SEA	Strategic Environmental Assessment
SPG	Supplementary Planning Guidance

### **3. LINKS TO STRATEGY**

- 3.1 The Single Integrated Plan Caerphilly Delivers has been prepared by the Local Service Board, and it represents a determined commitment by all partners to accelerate change, strengthen partnership working, multi-agency collaboration, and accountability for delivery.
- 3.2 The Local Development Plan is the statutory framework for the development and use of land within Caerphilly County Borough and is the key mechanism for delivering the land use elements of Caerphilly Delivers.
- 3.3 Caerphilly County Borough Council adopted its first Local Development Plan in 2010 and if adopted, the Replacement Caerphilly County Borough Local Development Plan up to 2031 would supersede the current LDP and would provide the land use policy framework for decision making up to 2031.

### **4. THE REPORT**

#### **Background**

- 4.1 The Delivery Agreement (DA) for the Replacement Caerphilly County Borough Local Development Plan up to 2031 commits Caerphilly County Borough Council to produce the Replacement LDP according to the stated timescales and consultation processes contained within the Community Involvement Scheme (CIS).
- 4.2 On 3 February 2016 the Council approved the Deposit Replacement Caerphilly County Borough Local Development Plan up to 2031 for the purposes of a statutory six-week public consultation process. The deposit consultation period began on 11 February 2016 and was proposed to end on the 23 March 2016 in line with the requirements of the DA (Update December 2015). However the consultation period was extended to run up to the end of the 22 April 2016 when it was noted that one of the Appendices of the Habitat Regulation Assessment was omitted from the documentation that was made available on the LDP web page.
- 4.3 The Council must consider all representations made in accordance with LDP Regulation 17 before submitting the content of the Deposit Replacement LDP for formal Examination by the Planning Inspectorate. Representations made at deposit stage constitute representations to be considered at the independent examination.
- 4.4 Welsh Government guidance requires the Council to prepare a Report of Consultation (RoC), identifying the bodies engaged or consulted, the main issues raised and the steps taken to publicise plan preparation. Any deviation from the CIS needs to be explained and fully justified. This RoC is required to be submitted for independent examination to the Welsh Government and the Planning Inspectorate.

4.5 Beyond an acknowledgement of receipt, the Council as the Local Planning Authority is not required to respond to individual representations, although some may choose to do so. In the interests of transparency however officers are in the process of preparing a full RoC which is scheduled to be reported to full Council in November 2016 for consideration.

### **Public Consultation**

4.6 The Council sought to involve the public in the Deposit Consultation in accordance with the Delivery Agreement. Community Involvement is a fundamental element of the plan preparation process, therefore the Council have sought to engage as wide an audience as possible through different means of communication the details of which will be contained in the RoC in due course.

4.7 In total 4,654 individuals and/or organisations submitted comments during the statutory consultation period. It is important to note that these are representation that offer comment in respect of aspects of the plan and also representations of both support and objection to elements of the plan. An officer response and recommendation in respect of the issues raised is scheduled to be reported to Council in November 2016. An initial assessment of the representations indicates that:

- there were 5 notable petitions in terms of numbers: There were 2,961 signatures to a petition concerned about the possible development of the Ness Tar Site and Nant y Calch Farm; a petition from Ysgol Gymraeg Caerffili entitled 'No more houses, save our greenfields', signed by 22 adults and 106 children; Julie Morgan AM submitted a petition signed by 457 people, predominantly from Cardiff objecting to development on Caerphilly Mountain; a 372 signature petition in respect of Grove Park, Blackwood; and Trethomas Conservation Group submitted a petition regarding the potential sale of land at Standard Street (which is an unallocated site in the plan) which was signed by 201 people that want the site protected as open space. Finally, there is an on-line petition containing 560 signatures which has been forwarded by Julie Morgan AM;
- Although small in number, there were significant comments received from Welsh Government (WG) and other Statutory Bodies and organisations on the Deposit Replacement LDP itself and a small number of responses to the Strategic Environmental Assessment / Sustainability Appraisal and Habitat Regulation Assessment.

4.8 The Strategic Environmental Assessment/Sustainability Appraisal (SEA/SA) process is iterative with the production of the Deposit Replacement LDP. At the deposit stage the SEA/SA represents a snapshot in time of the plan. Part 2 of the SEA/SA of the Deposit Replacement LDP comprised two documents, one that set out the results of the Assessments of the detailed Deposit Replacement LDP (Document 4), and a second which outlined the Habitats Regulations Assessment (Document 5). Both of these documents were also subject of the public consultation exercise in tandem with the Deposit Replacement LDP and the responses received will be incorporated within the Report of Consultation that will be considered by Council in November 2016.

4.9 While many of the representations were related to the development of specific sites, the particular responses described by the second bullet point in paragraph 4.12 raise many more individual issues and are far more complicated in scope and depth. In particular the Welsh Government has raised specific concerns that members need to be aware of at this time.

4.10 Officers are also aware, following comments made at Council and Planning Committee, that members consider that greater financial support should be available from Welsh Government to encourage the development of brownfield land.

## WELSH GOVERNMENT RESPONSE

- 4.11 It is important to understand the role of Welsh Government in the plan preparation process. Essentially, at deposit stage Welsh Government's role is to scrutinise plans to identify whether they are consistent with national planning policy and identify whether there is any conflict that does not appear to be justified by robust evidence or local circumstances. If necessary, Welsh Government can submit objections to the plan if they feel this is necessary and it is usual for them to do so.
- 4.12 In their covering letter of 22 April 2016 the Welsh Government:
- Indicated that they are broadly supportive of the LDP strategy which seeks to locate development in sustainable locations, linked to the role and function of places and infrastructure provision and this is to be welcomed;
  - Noted that the plan makes provision for 13,640 dwellings in order to deliver 12,400 units over the plan period 2011-2031 which is a deviation of approximately 6,750 dwellings above the Welsh Government principal projection. (The latest Welsh Government 2011-based principal projection indicates that approximately 5650 dwellings are required over the plan period (2011-2031));
  - Recognised that it is for the Local Planning Authority (LPA) to consider the latest Welsh Government (WG) household projections and local factors when assessing the housing requirement in a plan;
  - Recognised that the LPA should set a level of housing provision that is appropriate for the area, linked to the key issues the plan is seeking to address and have regard to Planning Policy Wales.
- 4.13 The Welsh Government's formal representations to the plan, contained in an annex to their letter, are separated into the following four categories:
- Category A:** Fundamental issues that are considered to present a significant degree of risk for the authority if not addressed prior to submission stage, and may have implications for the plan's strategy.
- Category B:** Matters where it appears that the deposit plan has not satisfactorily translated national policy down to the local level and there may be tensions within the plan.
- Category C:** Whilst not considered to be fundamental to the soundness of the LDP, there is a lack of certainty or clarity which might be more clearly demonstrated.
- Category D:** Matters relating to clarity of the plan generally.
- The representations that are categorised as **Category A** are those of most concern.
- 4.14 Welsh Government has raised a Category A objection in respect of the Delivery of the Strategy as it relies on the delivery of the two Strategic Sites identified in the plan at Maesycwmmmer and South East Caerphilly. In summary Welsh Government are concerned that there is no evidence to support the delivery of the two sites and consider this a fundamental gap in the evidence base.
- 4.15 Officers are working closely with the landowner consortia for both sites on the evidence necessary to demonstrate that both sites are deliverable and viable. This evidence is being prepared in readiness for submission for independent examination to both the Welsh Government and the Planning Inspectorate. The Welsh Government Officials are of the

view that this evidence should have been available during the Deposit Consultation, and as it was not, it will need to be subject of a further formal public consultation exercise to enable interested people / parties to make comment upon it. A decision in respect of the form that this further consultation should take will need to be taken, however it could take the form of a second deposit consultation.

- 4.16 The Category B - D representations can be addressed and a response to each of the issues raised by Welsh Government is contained in the background paper which has been made available in the Members Library.
- 4.17 It should be noted the Welsh Government **has not raised a formal objection** in respect of the population and household projections that underpin the Deposit Replacement LDP, they merely note the deviation from the WG principal projections. It is also critically important to note that the assumptions underpinning the 2011 projections were significantly affected by the 2008 global recession and as such the trends that they are based upon were severely impacted by the downturn in the economy at that time. As a consequence the projections are significantly lower than one would expect when taking into account all of the evidence that underpins the local authority projections. Indeed if the WG projections were to be used, the Replacement LDP would essentially be planning for recession and not for growth.
- 4.18 This was recognised by Welsh Government in April 2014 when the Minister for Housing and Regeneration (Carl Sargeant) wrote to all local planning authorities in Wales and the Planning Inspectorate indicating that the projections were low and should merely form the starting point for LDPs. Indeed he went further and stated in his letter that *“it is not prudent for a Plan, looking 15-20 years ahead to replicate a period of exceptionally poor economic performance.”*
- 4.19 Welsh Government has subsequently written to this council on 29 June 2016 stating amongst other things that, “The most recent 2011-based household projections used for assessing housing requirements are not an end in themselves. Local authorities should set a level of housing provision that is appropriate for their area, with regard to key issues the plan is seeking to address and the requirements of planning policy.” It is reaffirmed that, “It would not be appropriate to reduce the level of housing provision to align solely with the 2011-based projections as this would replicate a period of exceptionally poor economic performance and be at odds with the existing LDP strategy and evidence bases as referenced in the Ministerial Letter (April 2014).”

#### **SUMMARY OF THE MAIN ISSUES RAISED – GENERAL PUBLIC**

- 4.20 The development of land is contentious, and it is therefore not surprising that the consultation in respect of the Deposit Replacement LDP generated much interest and considerable response from the public and other interested bodies.
- 4.21 In terms of public involvement in the process, the Deposit Stage is the key stage that enables members of the public to fully participate and make representations of support, or objection, in respect of the full set of policies and proposals for the County Borough. Members will be aware that a number of the proposed development sites generated considerable interest and public debate.
- 4.22 As indicated previously there were 5 notable petitions in terms of numbers: There were 961 signatures to a petition concerned about the possible development of the Ness Tar Site and Nant y Calch Farm; a petition from Ysgol Gymraeg Caerffili entitled ‘No more houses, save our greenfields’, signed by 128 people both children and adults; Julie Morgan AM submitted a petition signed by 457 people, predominantly from Cardiff objecting to development on Caerphilly Mountain as well as a further on-line petition with 560 signatures; a 372 signature petition in respect of Grove Park, Blackwood; and

Trethomas Conservation Group submitted a petition regarding the potential sale of land at Standard Street (which is an unallocated site in the plan) which was signed by 201 people that want the site protected as open space.

- 4.23 There was also a co-ordinated response from a number of opposition groups to specific sites allocated within the Deposit Replacement LDP. In this context a number of standard letters were submitted for consideration, the most notable of which relate to: the Strategic Site in Caerphilly, i.e. Ness Tar (3041); Gwern y Domen Caerphilly (826); the further expansion of Oakdale on greenfield land (562); and the Impact of housing sites on Sites of Importance for Nature Conservation (65). Appendix 2 provides a detailed breakdown in respect of all standard letters received. Interestingly a standard letter of support was also submitted by 27 people in respect of the allocation of Rhos Farm, Penpedairheol as a Special Landscape Area outside settlement limits.
- 4.24 256 representors have submitted at least one standard letter for sites in Caerphilly Basin as well as signing a petition. Furthermore 15 of these representors signed more than 1 petition.
- 4.25 A further 1,228 submissions from individuals and interested parties have been submitted and these are in the process of being analysed. A number of these will also relate to the aforementioned sites and when this analysis is concluded it will be contained within the RoC.
- 4.26 An initial overview of the site specific submissions indicates that the key issues that are of concern to residents are:
- Impact of new development on the existing infrastructure, in particular the Caerphilly Basin highway network;
  - Cross boundary issues in respect of the transport network between Caerphilly/Cardiff;
  - Loss of greenfield land to development;
  - Ability of schools/health facilities to accommodate additional people;
  - Impact on biodiversity, loss of trees/hedgerows etc;
  - Impact on the rail network.
- 4.27 Subject to approval by full Council (currently scheduled for November 2016), the next stage in the plan preparation process would normally be the Examination stage. However as indicated previously there is a need for the Council to undertake a second consultation in order to enable interested parties to consider and make representation in respect of the evidence underpinning the delivery of the two proposed Strategic Sites.
- 4.28 Prior to determining the appropriate way forward, there are additional important matters that Members need to consider and debate, specifically:
- The rapidly changing regional context and growing momentum for the need for a strategic development plan for the region;
  - A formal request from Rhondda Cynon Taff to prepare a Joint Local Development Plan; and
  - The need to undertake a second consultation in respect of the evidence underpinning the delivery of the two proposed Strategic Sites in order to address WG concerns.

## CHANGING REGIONAL CONTEXT

- 4.29 The South East Wales region is entering a significant period of change. On the 17 June 2015, Cabinet agreed to support the development of a plan for the City Deal, with all ten local authorities contributing towards the cost of research and financial planning. On the 6 October last year, Council resolved to support the ongoing work towards a City Deal, and in February 2016, members agreed that the authority (through the Leader) should formally sign a commitment to participate in the City Deal initiative. Accordingly, on the 15 March 2016 the City Deal agreement was signed by the ten local authority Leaders in the region, the First Minister for Wales and the Chief Secretary to the Treasury. The City Deal sets out a transformative approach to how the Cardiff City Capital Region will deliver the scale and nature of investment needed to support the area's growth plans.
- 4.30 The City Deal presents a unique opportunity for the ten local authority areas to collaborate to develop and deliver a strategic approach to housing, regeneration and economic growth which will create an accessible, liveable, 'worklife integrated' and highly connected Capital Region. In this respect the agreement signed by the Leaders, discusses the prospect of the ten local authorities (in partnership with the Welsh Government) developing an integrated Strategic Development Plan (SDP) that incorporates housing and employment land-use with wider transport plans. The new SDP will provide the blue-print for development across the city-region. The Planning (Wales) Act 2015 which was enacted in July 2015 sets out the statutory process for establishing and preparing the SDP.
- 4.31 Although the SDP is separate to the 'City Deal' process, there are clear synergies and the SDP is a continuation and strengthening of the regional relationships. Regional land use planning provides a delivery mechanism for some aspects of the City Deal and will provide the regional planning policy framework which will inform the relative status of each area in terms of future economic, transport and housing growth. In short it will be the key mechanism by which Caerphilly County Borough can develop into a pivotal and connected place within the region.
- 4.32 Justification on the precise boundary of a regional plan will need to be undertaken in due course, however Cardiff University has completed some research into developing a methodology for drawing up strategic planning boundaries in Wales. This work suggests that, based on economic development evidence, a logical boundary would include all ten South-East Wales Local Planning Authorities, from Bridgend in the west to Monmouthshire in the east. This would mirror the City Deal. A proposal on where the boundary should lie would be subject to specific consultation including with each of the Councils and will be subject of full public consultation, with the final proposal submitted to the Welsh Government for approval.
- 4.33 In the future therefore the SDP will deal with strategic planning issues, such as housing demand, strategic employment sites, supporting transport infrastructure ( e.g Metro), which cut across a number of local planning authorities. This will allow such matters to be considered and planned for in an integrated and comprehensive way within the region and will address concerns that the region is not being planned in a holistic and connected way.
- 4.34 If the SDP is prepared Caerphilly County Borough Council will be expected to produce what is known as a 'light-touch LDP', which will focus on matters of local significance, but all strategic planning matters will be addressed and covered by the SDP. The light-touch LDP must adhere to and be consistent with the SDP. Local Planning Authorities would then be required to make their planning decisions based on both the adopted SDP and the adopted light-touch LDP.
- 4.35 In line with the LDP process, the SDP process should be capable of completion in 4 years. Welsh Government anticipate that the earliest SDP could be adopted in 2021.



## **Neighbouring Local Planning Authority – Development Plan Status**

- 4.36 With the exception of the Vale of Glamorgan (which is currently at Examination stage) all of the local planning authorities in SE Wales now have an adopted LDP. Of these, both Merthyr and Rhondda Cynon Taff are now progressing to the first review of their plans. As part of the initial work necessary to commence review, local planning authorities must explore the possibility of joint working. In this context RCT has written to all of its neighbouring planning authorities, including Caerphilly, in order to establish if there is any possibility of commencing work on a Joint Replacement Plan.
- 4.37 Neath Port Talbot and Cardiff have both only recently adopted their LDPs (2016) and neither are therefore likely to embark on the production of a joint plan at this time. Merthyr is about to review its LDP and there is a realistic prospect therefore that a joint LDP could be prepared for Merthyr and RCT. The Vale of Glamorgan are at Examination and it is unlikely therefore that they would progress to an immediate review on adoption of their plan. Bridgend adopted their plan in 2013 and could progress work on a joint plan with RCT.
- 4.38 Work on the Replacement LDP for Caerphilly is well advanced having progressed to deposit stage. In order to progress work on a joint plan, it would be necessary to halt work on the emerging Replacement LDP and commence work on a Joint LDP. This would involve exploring alternative strategy options for a far wider geographical area than that of Caerphilly County Borough. The extent of that area would be open for discussion.
- 4.39 Whilst it is acknowledged that there is a statutory requirement to move to review after four years, it would make considerable sense if work on the review of LDPs within the region was suspended whilst the SDP is prepared. All local planning authorities could then prepare light touch LDPs for their area which would be in conformity with and deliver the growth required by the SDP. Clearly it is not for Caerphilly Council to make this decision in isolation or to recommend this approach to a neighbouring authority. Further, given how advanced Caerphilly is with the preparation of a Replacement LDP, serious consideration would need to be given as to whether or not suspending work on that plan would be acceptable or appropriate.
- 4.40 Given the importance of strategic planning to the delivery of key elements of the City Deal (specifically housing growth, employment growth and the Metro), preparation of a SDP for the region should now be undertaken as a matter of high priority and the relationship of the SDP with the next generation of LDPs needs further consideration by all the local planning authorities within the region.

## **The need to undertake a second consultation in respect of the evidence underpinning the delivery of the two proposed Strategic Sites**

- 4.41 As indicated previously in this report the Welsh Government has raised a Category A objection in respect of the Delivery of the Strategy as it relies on the delivery of the two Strategic Sites identified in the plan. Importantly they are not challenging the principle of the strategic sites or their appropriateness in terms of their location, but require further evidence in terms of their deliverability. In summary, if this is not addressed prior to submission, WG considers that there is a significant risk that the plan will be found unsound.
- 4.42 Officers are working closely with the landowner consortia for both sites on the evidence necessary to demonstrate that both sites are deliverable and viable. This evidence is being prepared in readiness for submission for independent examination to both the Welsh Government and the Planning Inspectorate. The Welsh Government Officials are of the view that this evidence should have been available during the Deposit Consultation,

and as it was not, it will need to be subject of a further formal public consultation exercise to enable interested people/parties to make comment upon it.

4.43 Conversely, the consortia make the extremely valid point that the work is extremely expensive to undertake and they required the certainty of an allocation in the Deposit Plan (which they currently have) in order to justify the considerable costs associated with the work associated with delivery. They are confident that this evidence will be forthcoming in time for the Examination and they will defend the sites at Examination alongside officers of the Council.

4.44 Having discussed the matter at length it is considered that the Council has two options:

**Option 1 – Second Deposit – continue with the review of the LDP including a further period of consultation**

4.45 This option proposes that officers continue to work with the consortia to prepare the level of evidence necessary to satisfy WG. On receipt of the information undertake a second six week deposit consultation period. In the interim, continue to analyse all of the representations raised by stakeholders through the first consultation period and work with them to alleviate their concerns as far as possible. Update the evidence base in readiness for the second consultation process.

4.46 The second deposit period would be undertaken in line with the regulations and guidance and would enable stakeholders to comment on the plan as a whole; and all of the updated evidence base, including the work prepared by the consortia on deliverability/viability of the two strategic sites. The Planning Inspectorate have advised that the comments submitted to the first deposit would have to be re-submitted by all stakeholders if they are to be considered at Examination. Further to this second deposit consultation, the Replacement LDP together with all of the representations would then be submitted to the Planning Inspectorate for Examination.

4.47 Inevitably the timetable for the delivery of the plan will need to be reconsidered, in light of the additional work that is needed to ensure that the plan can be found to be sound at Examination. Consequently there will be a need to: amend the Delivery Agreement (DA) which includes the Community Involvement Scheme and the Timetable; and agree the amended DA with WG.

4.48 Local planning policies and proposals for Caerphilly County Borough will continue to be contained within the Adopted Caerphilly County Borough Local Development Plan up to 2021 (LDP). Subject to it being found sound at Examination, the Replacement LDP will supersede the existing LDP once it is adopted, and this will provide the local planning policy for the county borough up to 2031. Any future further review would likely take place within the context of an adopted SDP having been prepared and is likely to be a light touch LDP.

**Implications**

4.49 It is important that Members fully understand the potential implications of a second deposit consultation, specifically that:

- The full Report of Consultation in respect of the Deposit Replacement LDP will form an integral part of the evidence base underpinning the plan and will be reported to Council in November 2016 as scheduled in the Forward Work Programme;
- The second deposit consultation will then be undertaken in respect of the Replacement LDP, modified as necessary to take into account the Council's

consideration of comments received during the first deposit consultation period; the results of that consultation would be reported back to Council;

- The Replacement LDP (as modified), together with all of the evidence base and representations received would then be submitted to the Planning Inspectorate for Examination;
- The Replacement LDP (as modified) would be prepared in the absence of any regional policy, but would have regard to the existing cross boundary issues that are required to be taken into account in any event, as an integral part of the plan preparation process;
- The potential implications for the development and use of land within Caerphilly county borough as a consequence of the rapidly evolving and changing regional context and City Deal Initiative may not be adequately incorporated and reflected in the plan;
- The certainty created by the emerging Replacement LDP progressing will provide confidence for development investment and regeneration funding as inward investors have certainty over the future development and use of land and premises;
- Subject to the Replacement LDP being found to be sound at Examination, the Replacement LDP could be adopted by the end of 2018;
- On adoption the Council should be in a position to demonstrate that there is a five year housing land supply, and thus this important issue would be addressed;
- The Council will meet its statutory duty under section 69 of The Planning and Compulsory Purchase Act 2004 and The Town and Country Planning (Local Development Plan) (Wales) Regulations (as amended) which require a local planning authority to commence a full review of its LDP every four years from the date of its initial adoption.

**Option 2 – Seek further discussions with WG and local authorities within the Cardiff Capital Region regarding the possible development of a Strategic Development Plan and withdraw the Deposit Replacement Plan:**

- 4.50 Given the emphasis by Welsh Government on collaborative working and the rapidly changing regional context for plan preparation, option 2 outlines the merit or otherwise of plan withdrawal.
- 4.51 The Planning Wales Act 2015 allows local planning authorities in Wales to consider the merit and rationale for establishing a Strategic Development Plan for their area. Provisions in section 4 and part 1 of schedule 1 of the Act were commenced on 5 October 2015, which enabled the process for designating strategic planning areas and establishing strategic planning panels to commence.
- 4.52 On the 15 March 2016, the City Deal agreement was signed by the ten local authority Leaders in the region (including the Leader of Caerphilly County Borough Council), the First Minister for Wales and the Chief Secretary to the Treasury. The City Deal presents a unique opportunity for the ten local authority areas to collaborate to develop and deliver a strategic approach to housing, regeneration, economic growth and transportation. In this context, the agreement signed by the Leaders, discusses the prospect of the ten local authorities (in partnership with the Welsh Government) developing an integrated Strategic Development Plan (SDP).

- 4.53 The South East Wales region is consequently entering a significant period of change and all available resources will be needed to realise the Vision for the Cardiff Capital Region, which is to: *“work together to improve the lives of people in all our communities. We will maximise opportunity for all and ensure we secure sustainable economic growth for future generations”*. Given the importance of strategic planning to the delivery of key elements of the City Deal (specifically housing growth, employment growth and the Metro), the process of plan preparation for the SDP for the Cardiff Capital Region should now proceed as a matter of high priority.
- 4.54 The Planning Wales Act requires that local planning authorities not only proceed with the adoption of LDPs, but also seeks to ensure that the next generation of LDPs are prepared and adopted in a timely manner. Whilst this is clearly desirable in a plan-led system, it would be beneficial if the next generation of LDPs in SE Wales were to be prepared in light of the strategy and policies contained in an emerging SDP. There is a clear consensus in the ten local planning authorities in SE Wales that strategic issues, particularly in respect of housing growth and demand, economic growth and transportation must be addressed at the regional level through the preparation of the SDP. The agreement signed by the Leaders also endorses this view.
- 4.55 The relationship of the SDP with the next generation of LDPs needs further detailed consideration by all the local planning authorities within the region, the Welsh Government and the Planning Inspectorate. Caerphilly has been instrumental in the delivery of the first round of LDPs in Wales and is now leading the way on the first round of reviews. However it is becoming increasingly evident that the work on the Replacement LDP needs to be undertaken with an improved understanding of the future proposals for growth within the region, which are currently being discussed as a consequence of investment decisions being taken as an integral part of the City Deal Initiative. This is particularly the case in terms of the investment decisions in respect of strategic employment sites and transport provision (Metro).
- 4.56 It is also interesting to note that the consultation in respect of the Deposit Replacement LDP also highlighted the public’s real concerns that any growth in Caerphilly county borough, and Caerphilly Basin in particular, should be underpinned by significant investment in the infrastructure of the region and in particular the transportation network. Furthermore the impact of new development in Cardiff coupled with growth in the Caerphilly Basin was of real concern to residents in terms of the perceived detrimental effect that development would have on the strategic highway network between Caerphilly Basin, Cardiff and Newport. Preparation of the SDP would address concerns that development is not planned in a holistic and integrated way and would ensure that such concerns can be adequately addressed.
- 4.57 This option therefore would seek to delay progress on the delivery of the Replacement LDP to enable the implications of the rapidly evolving regional work to be properly understood and incorporated and reflected in the plan. The delay would afford an opportunity for officers to explore with neighbouring local planning authorities, WG and the Planning Inspectorate improved clarity on the aspirations of all in terms of the next generation of LDPs and the relationship of these plans with the SDP.
- 4.58 Subject to Ministerial approval the Council as the local planning authority may withdraw an emerging LDP at any time before it is submitted to the Welsh Government and Planning Inspectorate for independent examination. Therefore if members were minded to support this option, then the Welsh Ministers would need to be notified of the Council’s intention to withdraw the plan, and subject to approval, there would then be a statutory process that would need to be followed to formally withdraw the plan. It is worth noting however that the Welsh Ministers may not approve this request and could direct the LPA to continue work on the Replacement LDP. Under Part 6 of The Planning and Compulsory Act 2004

the WG has wide-ranging powers of direction as well as default powers in relation to the preparation of the Local Development Plan.

- 4.59 In considering this option it is also important to note that Section 12 of the Planning (Wales) Act 2015, introduces an end date for LDPs. Once the LDP end date is reached, the LDP ceases to be a development plan for the purposes of decision making.
- 4.60 The Caerphilly County Borough Local Development Plan up to 2021 will expire at the end of 2021. It is anticipated that a SDP could be developed by 2021. However, if this did not occur, and in the absence of a replacement LDP, planning would be determined in the light of the remaining extant tiers of the development plan, such as the forthcoming National Development Framework, any relevant SDP, and national planning policy as expressed in Planning Policy Wales until such time as a new LDP for the county borough is adopted.

### **Implications**

- 4.61 It is important that Members fully understand however the potential implications of plan withdrawal in making a decision, specifically that:
- The Adopted LDP will become increasingly out of date leaving the Council in a vulnerable position in terms of speculative planning applications for housing and other forms of development anywhere in the county borough. The Council could be perceived as acting unreasonably and significant costs could be accrued at future planning appeals as a result;
  - The annual monitoring process has clearly demonstrated that the county borough has failed to maintain a five year housing land supply as required by National Planning Policy. The shortage in the housing land supply is a matter that the local planning authority is required to address. Any delay in preparing a Replacement LDP will hinder the local planning authority's ability to address this critical issue;
  - The uncertainty created by plan withdrawal could result in delay to development investment and regeneration funding as inward investors divert their finances to surrounding areas where there is more certainty over the future development and use of land and premises.
  - The Council will not meet its statutory duty under section 69 of The Planning and Compulsory Purchase Act 2004 and The Town and Country Planning (Local Development Plan) (Wales) Regulations (as amended) which require a local planning authority to commence a full review of its LDP every four years from the date of its initial adoption;
  - WG could issue a direction to the Council to continue work on the emerging Replacement LDP;
  - WG could use their default powers to intervene in the plan preparation process to conclude work on the Replacement LDP and the Council could be considered as a failing local planning authority;
  - The finite resources available for plan preparation could be targeted at progressing the SDP as a priority;
  - A light touch LDP could be prepared for Caerphilly in due course which will be in conformity with the new SDP for the Cardiff City Capital Region; and
  - The light touch replacement LDP for Caerphilly will reflect the relative importance of Caerphilly County Borough as a pivotal and highly connected place within the wider city-region.

- 4.62 Whichever option is preferred it is important to recognise that having an up to date development plan is necessary and central to achieving the sustainable development of the county borough. It provides the legislative and policy framework to manage the use and development of land in the public interest in a way which is consistent with key sustainability principles and key policy objectives.
- 4.63 The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, when exercising our functions in terms of the preparation of the Local Development Plan and also in taking decisions on individual planning applications.
- 4.64 The Planning (Wales) Act 2015 seeks to deliver a planning system which is fair, resilient and enables development, helping to create sustainable places where citizens have improved access to quality homes, jobs and infrastructure, whilst protecting our most important built and natural environments and supporting the use of the Welsh language. The provision of an up to date development plan therefore is critical in terms of the role it will play in positively contributing to the achievement of the Well-being goals contained in the Well Being of Future Generations (Wales) Act 2015.

## **5. EQUALITIES IMPLICATIONS**

- 5.1 Whichever option is preferred it is important to recognise that having an up to date development plan is necessary and central to achieving the sustainable development of the county borough. It provides the legislative and policy framework to manage the use and development of land in the public interest in a way which is consistent with key sustainability principles which fundamentally incorporates equalities considerations and implications.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 **Option 1:** Costs will be incurred over a 2-year period commensurate with the statutory procedures in preparing a Replacement Local Development Plan.

Significant unknown costs could be incurred by the Council if planning decisions are determined on appeal over a 2-year period. Costs are not automatically awarded against the Council if it loses an appeal. The appellant has to make an application for costs and the inspector will consider whether the local planning authority has provided any substantial evidence in support of its reasons for refusal, or whether it has behaved unreasonably. Where costs are awarded, based upon recent appeal costs, they are likely to be approximately £25–30,000 for each reason for refusal. That does not include the Council's own costs.

- 6.2 **Option 2:** Costs associated with notice of withdrawal.

Welsh Government may provide start-up funding for the establishment of a strategic planning panel which will be responsible for the preparation of a Strategic Development Plan, however the exact amount and conditions are yet to be confirmed. Once a panel is established, it will be expected to manage costs relating to a number of functions, including staff costs, equipment, printing, technical advice, legal advice etc. How these costs will be met has yet to be formally considered and agreed, but will require contributions from the ten local authorities within the strategic planning area. The nature and values of these contributions is uncertain at this stage. The financial situation will need careful monitoring and consideration once further information is known. Using

Welsh Government estimates, the new SDP process and 'light-touch' LDP is estimated to save an authority between £180,000 and £330,000 over the creation of the documents (approximately 5 years). The robustness of these figures is questioned by officers, and it should be noted that the data was collated in 2013/14.

Significant unknown costs could be incurred by the Council if planning decisions are increasingly determined on appeal over a prolonged period of time (see paragraph 6.1).

## **7. PERSONNEL IMPLICATIONS**

7.1 None.

## **8. CONSULTATIONS**

8.1 All comments received have been incorporated in this report.

## **9. RECOMMENDATIONS**

9.1 To consider the content of the report and in particular the implications associated with the alternative options for progressing work on the development plan for Caerphilly County Borough.

9.2 Seek further discussions with WG and local authorities within the Cardiff Capital Region regarding the possible development of a strategic development plan.

9.3 Subject to Ministerial Approval (see 9.4 below), formally withdraw the Deposit Replacement Caerphilly County Borough Local Development Plan up to 2031.

9.4 Seek an urgent meeting with the WG Minister:

- To advise on the intention to withdraw the Deposit Replacement LDP
- To seek support for the preparation of the SDP as a matter of urgency
- To discuss the importance of Welsh Government funding to help unlock the remaining brownfield sites across the county borough

## **10. REASONS FOR THE RECOMMENDATIONS**

10.1 To highlight to elected members the significant implications associated with the alternative options for progressing the work on the development plan for Caerphilly County Borough.

10.2 The City Deal Agreement commits all ten local planning authorities in SE Wales to the preparation of a SDP for the Cardiff City Capital Region and it would be prudent to progress work on this as soon as possible.

10.3 To enable the Replacement LDP to be prepared in the context of an up to date SDP for the Cardiff City Capital Region.

10.4 To advise the WG Minister on the intention to withdraw the Deposit Replacement LDP and seek support for the preparation of the SDP as a matter of urgency.

## 11. STATUTORY POWER

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

Author:	Rhian Kyte, Team Leader, Strategic & Development Plans	
Consultees:	Cllr Keith Reynolds	Leader
	Cllr. Ken James	Cabinet Member for Regeneration, Planning & Sustainable Development
	Chris Burns	Interim Chief Executive
	Christina Harrhy	Corporate Director Communities
	Nicole Scammell	Acting Director Corporate Services and S151 Officer
	David Street	Corporate Director Social Services
	Gail Williams	Interim Head of Legal and Monitoring Officer
	Tim Stephens	Development Manager

### Background Papers:

Welsh Government Response (22 April 2016)

Officer recommendations in respect of issues raised by Welsh Government