

CABINET

Date of Meeting	Tuesday, 17 th January 2023
Report Subject	Adoption of the Flintshire Local Development Plan
Cabinet Member	Cabinet Member for Planning, Public Health and Public Protection
Report Author	Chief Officer (Planning, Environment and Economy)
Type of Report	Strategic

EXECUTIVE SUMMARY

All local planning authorities in Wales are required to produce, and keep under review, a Local Development Plan (LDP). This report sets out the culmination of approximately eight years of work to prepare and adopt an LDP for Flintshire. It marks a significant moment for the Council in terms of providing the opportunity to endorse an up-to-date, fully evidenced strategic planning framework to facilitate positive growth and development across the County, in line with Flintshire's National Growth Area status.

The Flintshire LDP will be the primary strategy and policy document against which the Council will make decisions on development proposals going forward. It is a sound and sustainable Plan that includes a requirement to consider the 'Placemaking' agenda and presents a positive approach to managing the future growth that Flintshire is going to experience. The policies and proposals within the LDP address the County's need for new homes, jobs, infrastructure, and community facilities to support economic growth and raise standards of living. Policies promoting development are set out alongside those that require proposals to respect, promote and protect the County's cultural heritage, important landscapes, and sensitive environments. Planning for growth commensurate with the aspirations of a National Growth Area inevitably involves difficult decisions about releasing land for development, and it is certainly the case that areas will see change. Crucially however, the LDP provides the opportunity to successfully manage this change and ensure that development is of a quality that will ensure the places ultimately delivered across Flintshire will provide a sustainable legacy for future generations.

Preparation of the LDP has been a comprehensive and iterative process, involving a substantial amount of consultation and engagement at various stages over many years of Plan formation. This has included both statutory and non-statutory consultation exercises. It has involved engagement with the public, key stakeholders, statutory bodies and industry representatives, all of which has been in accordance with relevant statutory Regulations. The key Stages of LDP preparation has included:

- Candidate Sites Submission 2014
- Topic Papers prepared 2015
- Key Messages consultation (Vision, Objectives and Settlement Hierarchy) 2016
- Strategic Growth and Spatial Options public consultation 2016
- Preferred Strategy public consultation 2017
- Full Deposit Plan (approved by Members for public consultation July 2019)

At a meeting of the Council on 29th September 2019 Members agreed to submit the Deposit LDP and supporting evidence to the Welsh Government and Planning Inspectorate for independent Examination. Subsequently, the Ministers of the Welsh Government appointed two Inspectors to conduct the Examination of the soundness of the LDP. The Examination commenced on the 11th November 2020 and Hearing Sessions subsequently took place over an eight month period, commencing on 13th April 2021 and concluding on the 23rd November 2021.

During the Examination the Council had to consider and respond to a significant new issue that arose with the introduction by NRW of stricter new targets for the levels of phosphates permitted to enter SAC protected rivers, and in the case of the LDP the Bala Lake and River Dee Special Area of Conservation. The Council in partnership with Wrexham Council produced the Dee Catchment Phosphorous Reduction Strategy, the first of its kind in Wales, that has provided the Inspectors with sufficient evidence to allow them to conclude the Examination of the LDP. Subsequently at the Cabinet meeting on 31st May 2022 Members approved for public consultation the 'Matters Arising Changes' (MACs) to the Deposit LDP (i.e. the changes to the Plan that arose from the Examination process). The consultation was undertaken over a six-week period and concluded on the 29th July 2022, with approximately 122 representations being duly made. There was broad spread of representations made across a number of issues and policies in the MACs. Possibly the most common was as a result of phosphates, objectors sought additional flexibility in the Plan's housing supply to ensure delivery, with 'alternative' sites being promoted again.

All duly made comments received were forwarded to the Inspectors for their consideration. In accordance with statutory obligations the comments were not considered by the Council. The consultation ensured that all interested parties had the opportunity to make the Inspectors aware of their views to inform their deliberations on the soundness of the LDP.

The Inspectors have now submitted their final Report (see Appendix 1) to the Council and the Examination has closed. The report has found the LDP to be sound and subject to the binding nature of it, the plan should now be adopted by the Council.

The Inspectors' Report was considered at a meeting of the Planning Strategy Group (PSG) held on Friday 6th January 2023 where the following resolution was made "That PSG acknowledges and endorses the Inspectors' Report and recommends to Cabinet that the LDP should be adopted".

RECOMMENDATIONS

1	Adopt the Flintshire Local Development Plan (LDP) (Final version at Appendix 2 – as amended by the binding changes set out in the Inspectors Report), as the new development plan for the Flintshire administrative area.
2	Approve the Adoption Statement (Appendix 3), Final Sustainability Appraisal including Equalities Impact Assessment (Appendix 4), and Habitat Regulations Assessment (Appendix 5).
3	Authorise the Chief Officer (Planning, Environment and Economy) to make outstanding typographical, grammatical, presentational, or factual amendments to the Flintshire LDP and supporting documents prior to its final publication.

REPORT DETAILS

1.00	CONSIDERING THE INSPECTORS REPORT AND ADOPTING THE LDP
1.01	<p>The Inspectors' Report on the LDP Examination</p> <p>The LDP Inspectors have concluded their deliberations and their Final Report on the Examination into the Flintshire LDP (dated 15th December 2022) has now been published. The Final Report and its Appendices are available at Appendix 1 of this report.</p>
1.02	<p>The Inspectors' Report concludes that, subject to the recommended Matters Arising Changes (MACs) set out in Appendix A and Inspector Matters Arising Changes (IMACs) in Appendix B of the report, the Flintshire Local Development Plan 2015 -2030 (LDP) provides an appropriate basis for the planning of the County up to 2030. The Council has sufficient evidence to support the strategy and has shown that it has a realistic prospect of being delivered. With the recommended changes, the Plan satisfies the requirements of section 64(5) of the 2004 Planning and Compulsory Purchase Act and meets the tests of soundness set out in Table 27 of Development Plans Manual edition 3.</p>
1.03	<p>The recommended binding changes that are set out in the Inspectors' Final Report are consistent with the schedule of MACs to the Deposit Plan that arose out of the Examination process and that were subject to public consultation in June and July 2022. That is, the Inspectors have comprehensively endorsed the amendments that were discussed during Hearings and subject to the recent public consultation. Only two minor amendments have been made by the Inspectors to MACs 58 and 61. Overall they have confirmed that these are appropriate changes to be</p>

	<p>made before the Plan is adopted. Some of the key changes endorsed by the Inspectors in their Report include:</p> <ul style="list-style-type: none"> • Rearrangement of the structure of the written statement to make the strategy clear and coherent; • Amendments to Policy EN15 Water Resources to ensure no adverse effects on the River Dee and Bala Lake Special Area of Conservation (SAC) resulting from phosphorus discharges; • Deletion of the housing element of the allocation at Warren Hall in the interests of sustainable development; • Renaming green barriers as green wedges for consistency with Planning Policy Wales (PPW).
1.04	<p>In respect of the 'Alternative Sites' put forward for housing development by objectors to the Plan, the Inspectors' Report succinctly confirms that there is no need for the inclusion of any such alternative sites since they are satisfied the Plan makes appropriate provision for the delivery of housing with the allocated sites</p>
1.05	<p>As well as the MACs required to ensure soundness of the Plan, a small number of minor changes/updates are also put forward by the Inspectors in their Report as non-binding suggestions to improve clarity. These are not necessary for soundness and are therefore advisory only. Having reviewed these minor amendments, officers consider that all the minor suggestions put forward are helpful modifications and appropriate to be incorporated into the Plan.</p>
1.06	<p>Only two of the MACs that were subject to consultation have been further amended by the Inspectors due to reasons of soundness (MAC58 and MAC61). A further Inspector proposed Matters Arising Change (IMAC2) introduced additional wording to the explanatory text to policy HN3 regarding affordable housing. These are matters of detail and of relatively minor significance and do not give rise to any concerns for the Planning Authority.</p>
1.07	<p>Key Findings</p> <p>The following aims to provide Members with a high-level summary of the Inspectors key findings and the degree to which these endorse the soundness of the Council's LDP:</p> <p>a. Phosphates – Given the work done by the Council in collaboration with Wrexham to produce the Dee Catchment Phosphorous Reduction Strategy (DCPRS), the amended policy EN15 Water Environment, and the flexibility built into the Plan the Inspectors concluded <i>'we are satisfied that, despite the uncertainties thrown up by the need for phosphorous mitigation, the LDP housing requirement will be delivered during the Plan period'</i>.</p> <p>b. Plan Preparation – The Inspectors have reviewed the Plan's preparation in light of the requirements of the 2004 Act, LDP Regulations and the DPM and have found that the plan has met all of the requirements. They comment on the various consultations carried out and commend the Council for progressing the Examination during Covid, concluding</p>

'accordingly, the legal and regulatory preparation requirements set out in the Development Plans Manual (Table 27, page 116) have been satisfied'

c. Plan Strategy and Strategic Growth – This section of the Inspectors report considered the soundness of the Plan's vision and objectives and how these had been translated into a growth strategy led by employment growth, supported by the requirement for housing, and the identification of two strategic mixed use development sites. The overall conclusion of the Inspectors was that *'subject to the MACs including the deletion of the housing from the Warren Hall site, the LDP growth strategy is coherent and based on a clear and robust preparation process. It is realistic and appropriate in the light of relevant alternatives and based on robust and credible evidence. In addition, it will address the Key Issues and Strategic Objectives effectively and efficiently. The amount of housing provision set out in the LDP is also realistic, appropriate and based on a robust and credible evidence base'*.

d. The Location of Development – The Inspectors had no concerns regarding the appropriateness of the Plan's settlement hierarchy or the spatial distribution of growth. Equally they supported the approach taken to candidate site assessment and definition of settlement limits. They concluded *'Our overall conclusion on this matter is that the spatial strategy is coherent, is in general conformity with Future Wales and is based on a clear and robust preparation process which accords with the strategic placemaking approach set out in PPW'*

e. Economy and Employment – The Inspectors concluded *'Our conclusion on this matter is that the strategy for the economy and employment is coherent and based on a clear and robust preparation process. It will conform with Future Wales Policy 20 which states that LDPs must recognise the National Growth Area as the focus for strategic economic and housing growth; essential services and facilities; and advanced manufacturing and transport infrastructure. Subject to the relevant MACs, the policies are realistic and appropriate and based on robust evidence'*

f. Housing including site selection and specific allocations – The Inspectors were satisfied that the site selection process leading to the identification of allocations was *'robust, thorough and well audited'*. The Inspectors commented on a number of common concerns raised by objectors to most if not all of the housing allocations including brownfield land, green wedged policy, best and most versatile agricultural land, environmental considerations, drainage, infrastructure and living conditions. None of these were found to be an issue sufficient to question the soundness of the allocations. Equally the Inspectors provided a helpful commentary on their assessment of each allocation and in their overall conclusion stated *'we have found that, in allocating the proposed sites relevant alternatives have been considered the housing sites have been identified through the consistent use of a robust and rational site selection process. The allocated sites are deliverable within the plan period and would make an appropriate contribution towards the housing requirement. The policies for the housing sites are clear and reasonable'*.

g. Other matters:

- Affordable Housing – The Inspectors were satisfied that the high level viability assessment of sites provides a sufficiently robust basis to support policy approach to affordable housing. They did add a further IMAC2 as shown in the appendix to their report, that reflects the need for further explanation to policy HN3 resulting from Member requests to clarify MAC75 in relation to affordable targets, raised during the consultation on the MACs.
- HMOs – The Inspectors note the lack of a Council register of HMOs and the difficulty therefore in identifying ‘over concentration’, and support the criteria based policy approach with minor amendments to policy wording
- Gypsy and Traveller Accommodation – The Inspectors concluded *‘The Plan’s approach to Gypsy and Traveller accommodation is consistent with national policy and is based on robust evidence, with sufficient provision being made to meet the identified need, through allocations capable of being developed, along with a clear policy approach to assess future proposals’*.
- Natural Environment – The Inspectors are content that the need for greenfield sites on settlement edges to sustain the necessary growth continues to be the correct approach and also agrees with Council’s approach that the green barrier had been drawn back in some locations where considered appropriate but retained for key areas of land where it was essential to retain its open character and appearance.
- Climate Change – In terms of the Plan’s approach to climate change, the Inspectors concluded *‘we also find that, subject to the identified MACs, the climate change and environmental protection policies will help to achieve the relevant objectives of the LDP in a sustainable manner consistent with national policy. They are based on robust and credible evidence’*
- Minerals – *‘Our conclusion on this matter is that the policies and proposals achieve the relevant objectives of the LDP in a sustainable manner consistent with national policy and are based on robust and credible evidence. Alternative strategies have been considered and the identification of sites based on a robust and rational site selection process. Subject to the MACs identified, the policies and requirements themselves are clear, reasonable and sufficient’*

h. Overall Conclusion - *‘We conclude that, with the binding recommended changes identified in this report and set out in Appendices A and B, the Local Development Plan satisfies the requirements of section 64(5) of the 2004 Act and meets the tests of soundness in PPW. In reaching this conclusion, we have taken into account the ways of working set out at section 5 of the WFG Act and are satisfied that the Local Development Plan as modified will guide the development and use of land in a way that contributes towards improving the economic, social, environmental and cultural well-being of Wales and complies with the WFG Act’*.

1.08	<p>Adoption Stage</p> <p>Statutory regulations require LDP adoption to be secured through a formal resolution of Council, and states that all binding recommendations in the Inspectors' Report must be incorporated into the Plan. When it is adopted, the Flintshire LDP will become the statutory Development Plan for the entire administrative area and the Unitary Development Plan (UDP) will cease to have effect.</p>
1.09	<p>A 'tracked changes' version of the LDP has been produced solely for the purpose of aiding the interpretation of the binding changes set out in the Inspectors Report and highlighting all the changes made to the Deposit version. This can be viewed at Appendix 2 of this report.</p>
1.10	<p>A 'Final Version' of the LDP is also available at Appendix 2. This version, as well as including all the binding changes also incorporates minor typographical, grammatical, and factual updates, which the Inspectors have authorised can be made in the interest of ensuring that the final adopted version of the Plan is usable and accurate. Following adoption, a graphically improved and fully formatted version of this Final Version will be produced for publication, which may necessitate some further typographical or factual amendments be made over and above those already incorporated. This could include some additional altered paragraph numbering, updated cross referencing, or improved layouts of text and diagrams. It is recommended that officers be authorised to make such minor amendments prior to publication of the fully formatted Final Version. In addition to the final published versions of the Plan to be produced as hard copies and for digital download, an interactive web-based version of the written statement and Proposals Map will also be produced for the benefit of users. The final version of the LDP will be published in Welsh and English.</p>
1.11	<p>Subject to the Council resolving to adopt the LDP, appropriate notification relating to the LDP and its supporting documentation will be published by means of an Adoption Statement. Notification and/or links to relevant documentation will also be sent to interested parties, stakeholders and consultees who have been involved in, or requested to be kept informed of the plan preparation process. The Adopted LDP and supporting documentation will also be made available at Council offices, Connects Centres, and will be available to view at all public libraries and on the Council's website</p>
1.12	<p>Statutory Regulations require the Council to publish an Adoption Statement (attached as Appendix 3 to this report), incorporating information relating to Sustainability Appraisal and Strategic Environmental Assessment (SA/SEA). The final SA/SEA and Habitats Regulations Assessment (HRA) are required by the Regulations to be published alongside the Adopted LDP. The SA/SEA process has ensured that LDP policies and proposals reflect sustainable development principles, and has assessed their effect on the economy, social wellbeing, resource conservation and environmental protection/enhancement. The HRA process has importantly concluded that the LDP will not adversely affect the integrity of any 'European Site' (designated under European Law), either alone or in combination with other plans or strategies. The final</p>

	SA/SEA and HRA Reports have been updated to take account of the Inspector's recommended changes. The Final Sustainability Appraisal Report and Non-Technical Summary, and the updated HRA Reports, are available as Appendices 4 and 5 to this Report.
1.13	<p>Legal Duty</p> <p>The Council is statutorily obliged to prepare and keep under review an LDP, in accordance with the Planning and Compulsory Purchase Act 2004, the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 and the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005. The adoption of the LDP will provide the Council with a clear, effective, and up to date planning framework to guide proposals, without which there would be an absence of an approved local policy context to justify refusing undesirable and speculative development, such as on unallocated Greenfield land.</p>
1.14	In accordance with the relevant Act and statutory Regulations, the Council is expected to adopt the LDP within eight weeks of receipt of the Inspector's report (dated 15 th December 2022). Furthermore to meet the Regulations, an Adoption Statement will be published alongside the adopted Plan and Inspectors Report, along with the Final Sustainability Appraisal Report and Habitats Regulation Assessment.
1.15	All binding recommendations in the Inspectors' Report must be incorporated into the Plan, and it is not possible to adopt the Plan with any of the binding changes omitted. Should the Council elect not to adopt the LDP, the Welsh Government does have the legal authority to intervene and can adopt the LDP on the Council's behalf.
1.16	<p>The role for the Council at this stage is to consider the plan as a whole and so the resolution sought is simply to adopt the plan, or not. There is no opportunity and nor is it appropriate to seek to consider just one aspect of the plan given that the Inspector's report is with us, and the Examination has now closed. To not consider adoption at this stage would also be perverse as the Council in accordance with the LDP Regulations, agreed to submit the plan for Examination in September 2020 on the basis that it considers the plan to be sound and suitable for adoption. Subject to the agreed Matters Arising Changes, the Inspectors have agreed with that position. It would also not make sense to not adopt the plan as given it has now been found sound by the Inspectors, non-adoption would mean that the sites in the LDP would still come forward, but the Council would also be vulnerable to speculative development proposals where there are no controls in place to reject these as the plan would not be adopted. In this scenario any Ward would be vulnerable to a speculative proposal.</p> <p>The Plan is not just about housing development, and non-adoption would remove a wide range of policy controls relating to economic development, town centres, affordable housing provision, transport, place making, flood risk mitigation, minerals, heritage, environmental and landscape protection, climate change and renewable energy, habitat and species protection, minerals and waste.</p>
1.17	A six-week challenge period to the High Court is provided by the Planning and Compulsory Purchase Act (PCPA) 2004 (section 113) – commonly

	known as seeking a Judicial Review (JR). Applications for legal challenge to the LDP must be made within six weeks of the date of the published Adoption Statement.
1.18	Subject to the outcome of any potential High Court process, when the Flintshire LDP is adopted, it will supersede the now time expired Flintshire Unitary Development Plan (UDP), and will provide the basis by which future planning applications and appeals will be determined.
1.19	<p>Future Stages and LDP Monitoring</p> <p>Following adoption of the LDP, the Council has a statutory requirement to prepare and submit an Annual Monitoring Report on the LDP to the Welsh Government, and to publish this for public inspection. This Annual Report will examine whether LDP's policies are being properly implemented and/or appropriate development is coming forward on allocations. It also provides the mechanism for determining whether policies need to be reviewed. The LDP contains a Monitoring Framework, which was finalised through the course of the Examination process, containing 66 indicators relating to the range of policies and proposals in the Plan. It is these indicators that must be measured and formally reported on each autumn. The Annual Reports will consider what action, if any, is required in line with the Monitoring Framework. This could include, for example, the need for additional Supplementary Planning Guidance (SPG), Development Briefs or further research into policy effects. Alternatively, where monitoring clearly shows that policies are significantly failing to implement the Plan's strategy, a policy review can be undertaken, which in turn can inform considerations for a wider Plan review.</p>
1.20	The first full Annual Monitoring Report on the Flintshire LDP is due in October 2024. The Council will also be required to undertake a full review of the LDP no later than four years after the date of adoption.
1.21	The Council has in the past prepared and approved a number of Supplementary Planning Guidance documents (SPG) to supplement the policies of the Flintshire UDP. To ensure conformity with LDP policies, a review of these SPG documents will be carried out as soon as is practicable following adoption of the LDP, which will assess those that can continue be referenced in development management decisions. This approach will ensure the advice and guidance provided in existing SPGs is carried forward to offer support to the policies of the adopted LDP. A programme of entirely new SPG to support and amplify the policies in the LDP will also be progressed over the next 18 months. All SPG will need to be approved by Members and be subject to public consultation. The schedule of new and updated SPG to be prepared, together with an indicative timetable for their production, is set out in appendix 2 of the Written statement and in the monitoring framework of the LDP.

2.00	RESOURCE IMPLICATIONS
2.01	The recommendation to adopt the LDP will incur low level expenditure in relation to the administrative actions required for formal adoption of the

	Plan, including the publication of documents and notification procedures. These costs will be accommodated within existing budgets for the current financial year.
2.02	The costs associated with undertaking the Monitoring Programme and Associated Work Programme, including the preparation of SPG, will need to be met from within future departmental budget subject to continuing provision being made to support LDP implementation and monitoring.

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	The LDP has been subject to an Integrated Impact Assessment as part of its production which has incorporated a Sustainability Appraisal, Strategic Environmental Assessment, Welsh Language Impact Assessment, Health Impact Assessment and an Equalities Assessment. The Plan has also been supported by a Habitat Regulations Assessment (HRA). These have all been considered as part of the Examination of the Evidence base of the Plan and the Inspector has found the plan and these assessments to be soundly based and appropriate. This includes compliance with the Ways of Working and the Well Being Goals. These assessments are attached at appendices 4-5.

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	All required consultation has been carried out in accordance with the LDP Regulations, both in the production of the Deposit LDP, and as part of publishing the Matters Arising Changes that emanated from the examination sessions. As the Inspector's report is binding and the Examination is now closed, there are no further opportunities to debate aspects of the plan or consult on any matter.

5.00	APPENDICES
5.01	Appendix 1 - Inspectors Report on the Examination into the Flintshire LDP and Related Appendices Appendix 2 - Amended Version of the Flintshire LDP written statement, incorporating binding changes Appendix 3 - The Adoption Statement Appendix 4 – Integrated Impact Assessment Report including Sustainability Appraisal Appendix 5 - Habitats Regulations Assessment Report

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Report to Council 29th September 2020 – Approval of Deposit Consultation Responses and agreement to submit the LDP for Examination</p> <p>Report to Cabinet 31st May 2022 – Outcome of Examination and agreement to publicly consult on the LDP Matters Arising Changes</p>

7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: Andy Roberts, Service Manager Strategy Telephone: 01352 703211 E-mail: andy.roberts@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS
8.01	<p>Adoption: Where the Council makes a resolution to adopt the LDP as its up to date development plan in order to make decisions on planning applications in accordance with its policies.</p> <p>Examination: This is the formal examination in public of the LDP to test the soundness of the plan which will be presided over by an independently appointed Planning Inspector.</p> <p>Planning Strategy Group: A sub group of the Council's Planning Committee that acts as a steering group guiding the progress of the production of the LDP. This is not a public committee and has no power to make direct decisions over the content of the LDP, but it makes recommendations to the Cabinet on the plan.</p> <p>Submission: Once the Council has agreed the responses to the representations made to the deposit LDP consultation, it also needs to agree to submit the Plan to the Planning Inspectorate for formal examination.</p> <p>Soundness: A series of tests that the LDP is required to satisfy to demonstrate that it is based on sound evidence, is in line with other plans and strategies, is national policy compliant, and is capable of being delivered.</p> <p>Examination in Public: A formal process carried out by a Planning Inspector to assess the soundness of the LDP Phosphate Levels: the concentration of phosphorous as a nutrient in river water</p> <p>Habitats Regulations: Environmental regulations which require the LDP to demonstrate that it will not cause harm to protected species or habitats</p> <p>Statement of Common Ground: An agreed position between two parties that helps the Inspector understand on what basis the parties agree</p>