

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CABINET**

DATE: **TUESDAY, 18 SEPTEMBER 2012**

REPORT BY: **DIRECTOR OF ENVIRONMENT**

SUBJECT: **DEVELOPING THE APPROACH TO FLINTSHIRE'S
LOCAL DEVELOPMENT PLAN**

1.00 PURPOSE OF REPORT

1.01 To set out the approach to be taken to preparing the Flintshire Local Development Plan (LDP), including the context for the new plan, the main themes and requirements of the LDP system, the likely timescales involved in preparation, the likely resources required, governance of the plan process, and the next steps.

2.00 BACKGROUND

2.01 The requirement for the Council to produce a LDP is set out in Part 6 of the Planning and Compulsory Purchase Act, 2004 (the Act). Procedural requirements are then set out in the Local Development Plan Regulations and national policy guidance in relation to the preparation of LDPs is set out in *Local Development Plans Wales* (2005).

2.02 Supplementary to these core provisions, there is also an LDP Manual that provides practical and technical advice on how to prepare an LDP, a guidance note written specifically for the public (*Planning Your Community*, 2006) and a companion guide to Planning Policy Wales which transposes national policy to the new plan system.

2.03 The advice and guidance contained in the above documents will be used to shape the content and direction of the LDP in Flintshire, along with the input of officers, stakeholders, the public, and Members as the decision makers. The way the LDP is prepared in Flintshire will also be guided by the experiences of other Authorities who have already produced their LDPs or who are further advanced in the process.

2.04 The Council has an adopted Unitary Development Plan (UDP) in place; but the significance of for the LDP process is two fold. Firstly, it was a requirement of the Welsh Government that Flintshire completed its UDP, prior to it being allowed to seek commencement of its LDP. Secondly, as limited weight will attach to the emerging LDP prior to it being examined and found to be sound, the benefit of having up to

date planning policies in an adopted plan are significant in terms of the Council's ability to maintain a plan-led system and make decisions in accordance with it.

- 2.05 At the meeting of the County Council held on 28th March 2012, Members resolved to write to the Welsh Government to inform them that the Council had completed work on its UDP under the provisions of the Town and Country Planning, 1990, and to seek a Commencement Order to allow preparation of its LDP to begin. Following this, a Commencement Order was made by the National Assembly for Wales on 27th June 2012, which came into force on 2nd July 2012.
- 2.06 Whilst there is now a clear democratic and professional desire to begin work on an LDP, this has to be balanced by the need to ensure that the process and requirements are fully understood, that the key issues and options for the plan to take account of are identified, what methods of consultation and engagement are to be used, and how the plan is to be successfully delivered.
- 2.07 Whilst there is clearly a need to make progress, there must also be a commitment to develop a process and programme for the LDP that is robust, realistic, relevant and deliverable.

3.00 CONSIDERATIONS

Context for the LDP

- 3.01 The LDP is a wholly new type of Development Plan in comparison to the UDP, which presents significant challenges and opportunities for the Council in determining the approach taken to producing the Plan. The Council is very much at the forefront of a new era in community leadership and the LDP is a key component in creating the places in which people want to live, work and invest. In its broadest sense, the LDP will comprise a strategy and an integrated set of policies and site specific proposals as with previous plans. A key feature of the LDP strategy is that it should demonstrate a clear link to the vision of the Community Strategy.
- 3.02 This requires careful thought and preparation, and the development of a long term vision for the County which sets out the real strategic options for delivery, whether in relation to housing, employment, biodiversity, or infrastructure. This is not just a planning or plan-led vision, but should comprise a more holistic view of the needs and aspirations of the community and of the Council and its partners, which can then be translated (in land use terms) through an LDP which is as much a 'visionary blueprint', as it is a regulatory plan.
- 3.03 The Community Strategy should provide much of this broader strategic context to inform development of an LDP strategy, and the development of a shared set of aims and objectives will only add to

the robustness and 'soundness' of the eventual plan. Community Plans can also play a role in this process as they give the local dimension and they have the potential to create greater agreement on issues and priorities. However, there does need to be a general recognition that growth and development need to be accommodated in the future, and that improvements to community infrastructure and places in general must go hand in hand with the acceptance that these can only be delivered through new development. This concept of Locality Planning has the potential to feature strongly in the approach to the LDP, and will be developed further for Members consideration.

- 3.04 Sustainability will also be a key theme of the LDP, expressed in terms of a prudent use of natural resources, a clear understanding of the economic, social and environmental needs of the area, and any constraints on meeting those needs. This will require the creation of a significant and up to date evidence base on which to base this assessment, and also to develop sustainable policies and proposals for the Plan. Whilst some of this information can be gathered in-house, it will also require the commissioning of specialist studies by external consultants in order to provide sound evidence that is robust and defensible. Significant budgetary provision is already in place to facilitate this, but there will be a further requirement for support funding as the LDP process moves forward.
- 3.05 A key difference to the previous UDP process is that the Act requires an LDP to be subject to independent examination to determine whether it is "sound". National guidance defines criteria on which to test the soundness of an LDP, and an LDP examination therefore is primarily concerned with identifying whether an LDP as submitted is essentially sound or otherwise. If it is then it can be adopted as it stands, if not then an Authority may be given guidance and time to re-consider the elements of the plan that do not make it sound, or in extreme cases the Authority may have no option but to withdraw the plan and go back to the early stages of plan production to begin again.
- 3.06 Whereas a UDP Inquiry had more scope to consider amendments and additions that would potentially make a plan sound, the Inspector at an examination has limited scope to alter an unsound plan, as it is the responsibility of the local authority to produce a sound plan in the first place. This is a fundamental consideration in that the Council must be sure that the plan it puts forward for examination is sound and sustainable, and is based on a robust and justifiable evidence base. Without this, and given the examination process is an 'all or nothing' assessment of the plan, there is a significant risk of having a plan found to be unsound, if the Council is unable to justify and support with evidence the strategy or policies in its plan. Several authorities have had to withdraw their plans because of this, and there are also issues with another that may also make it vulnerable to withdraw.

3.07 The new system is also designed to ensure that the Council consults with stakeholders and the public as early as possible, and that this consultation is based first on realistic alternatives and only later on the detailed plan.

3.08 **LDP Themes**

The new LDP system aims to achieve the following objectives:

- Informing LDP production through **Sustainability Appraisal**, incorporating **Strategic Environmental Assessment**, and **Habitat Regulations Screening**, to bring together evidence and consider the long-term implications of strategy options and policies in the LDP;
- Basing LDP production on effective **Community Involvement**, to consider a wide range of views, with the aim of building a wide consensus on the strategy and policies for the LDP;
- Ensuring **policy integration** by producing an LDP that is internally consistent and integrated with other main policies and strategies at national, regional and local level;
- Delivering a **faster and more responsive approach** to plan-making, with published timetables for preparation, fewer iterations of the plan before adoption, and regular strategic monitoring;
- Making plans that are more **strategic, concise and distinctive** in setting out a strategy for how an area will develop and change.

3.09 Perhaps most significant in the process to be developed is the need to include a significant degree of community involvement and stakeholder engagement. This requires careful management and coordination in order that it provides an effective input into the Council's decision-making relating to the LDP. As part of the **Delivery Agreement** that is drawn up and agreed with the Welsh Government, the Council must produce a **Community Involvement Scheme** which explains how developers, stakeholders, the public and interested groups can contribute to plan preparation. This will also explain how responses will be treated and how feedback will be given.

Consideration has already been given to the option of working with an independent facilitator on community engagement, and preliminary discussions have already taken place with Planning Aid Wales who offer such a service, and who have recently successfully managed the engagement process for the Brecon Beacons National Park on their LDP. Consideration will also be given to the balance and composition of key stakeholder groups (to include bodies such as Countryside Council for Wales, Environment Agency Wales, Welsh Water, Cadw, Home Builders Federation, local voluntary groups etc.), whose involvement is essential to inform the plan making process.

3.10 The LDP process also aims to be a faster and more responsive approach to plan making, with a **committed timetable** also forming part of the Delivery Agreement. The aim is to speed up and monitor the progress of the plan to avoid a lengthy preparation process that

sees a plan adopted well into its original time frame. That is why significant emphasis is placed on having a strong evidence base to ensure that plans are relevant and up to date. It is also the reason that public engagement is 'front-loaded' in the process in order that concerns can be taken account of at an early stage.

The plan is meant to focus on the main areas of change or protection, rather than be a 'plan for the plan's sake'. The LDP must also be sufficiently flexible such that delivery of its key strategic policies is not jeopardised by changes in circumstances at a later date e.g. the economic recession. As a final point on speed and responsiveness, the **Inspectors' report is binding** in order to facilitate a streamlined adoption process.

3.11 **Likely Timescales for LDP preparation**

The LDP comprises a number of key stages as set out below:

- Preparation of Delivery Agreement
- Collation of a Candidate Sites Register
- Evidence base, vision, sustainability objectives, soundness
- Pre-deposit participation (6 week consultation)
- Deposit Plan (6 week consultation)
- Alternative sites (6 week consultation)
- Examination by independent Inspector- testing its 'soundness'
- Binding Inspectors' report
- Adoption

3.12 Whilst consideration of the form and content of a draft Delivery Agreement has already begun, further work is needed in order to produce a realistic timetable for Members to consider. To assist this process however, an indicative time table is attached as Appendix 1, which sets out a potential timetable for the LDP based on an analysis of the average time other local authorities in Wales have taken to complete each stage in the process.

This suggests a minimum five year process although as said this requires further consideration in the context of Flintshire and the local issues to be addressed. It should be the ambition of the Council to achieve this sort of delivery date for the LDP, if not sooner. A further report will be brought back to Cabinet later in the year referencing a draft Delivery Agreement for consideration.

3.13 This will also be informed by the LDP Process Refinement Exercise currently being undertaken by the Welsh Government. This exercise is examining how effectively the current process has been operated and applied by Authorities carrying out LDPs and when it reports its findings, will assist the Council in taking on board any lessons to be learned from the experiences of others.

3.14 **Resources**

The Planning Policy team is fully staffed and the need to properly

resource the preparation of the LDP has been taken into account as part of the Service Review of Planning, and the development of a new staffing structure. Part of the approach to producing the LDP will also involve other staff within Planning, with for example, a requirement for Development Management staff to have a much more significant role in the process than previously with the UDP.

3.15 Strategically, a corporate officer group will also need to be established in order to ensure that all relevant service and partnership interests relevant to the LDP have an opportunity to participate in the plan process.

3.16 For the overall costs of the LDP process, an assessment is underway of the likely costs of the process based on the experiences of other authorities. This information will be used to help forward plan the budgetary requirements associated with the LDP which have the potential to be a significant cost to the authority.

3.17 **Governance**

The LDP is first and foremost the Council's plan and Members are the decision makers in that process. As the Plan is an expression of Council policy there will be a role for both the Cabinet and County Council at key stages in the process. It is important to re-emphasise here that these decisions must be based on sound evidence, and there must also be a clear audit trail as to how the views of the public and stakeholders have been taken into account as part of the process.

3.18 In terms of guiding the progress of the Plan, there has previously been a Development Plans Panel (DPP) of Members who considered both the draft content of the UDP and recommended on to the Council accordingly, and in the same vein, considered representations made on the plan and the recommended responses to those. However, in earlier stages of the UDP this panel comprised over 20 Members which did not at times make for effective progress at the strategic level required. In later stages of the UDP, this Panel was reconvened along the lines and membership of the Planning Protocol Working Group (PPWG), and in this format worked much more strategically and consistently. It would seem to make sense to consider establishing a **Planning Strategy Panel** to consider the LDP, by merging the former DPP and PPWG into one, within terms of reference to be agreed by Cabinet in due course.

3.19 **Next Steps**

Prior to finalising the Delivery Agreement with Welsh Government, there are a number of things to consider in developing the Council's approach to the LDP, which derive from the discussion above. These are summarised in the schedule in appendix 2 of this report and will form the immediate work programme for making progress with the plan.

4.00 RECOMMENDATIONS

- 4.01 That Members note the contents of this report, and endorse the actions that are necessary to carry out the next steps set out in appendix 2 of this report.

5.00 FINANCIAL IMPLICATIONS

- 5.01 There are significant financial implications for the Council in relation to the total costs of preparing the LDP. Other Authorities in Wales have quoted total costs amounting to between £1m and £2m. An assessment is currently underway to determine the likely costs involved in order to advise the Council and make budgetary provision as early as possible in the process. A total of £450,000 from Directorate Balances of £325,000 and 2012/13 budget provision of £125,000 is already set aside to cover the initial phases of the process and in particular the need to develop the evidence base to support plan making. The residual funding will be required on a planned basis over a 5 year period.

6.00 ANTI POVERTY IMPACT

None

7.00 ENVIRONMENTAL IMPACT

- 7.01 It is a requirement of the LDP process that a Sustainability Appraisal and Strategic Environmental Assessment is carried out as an integral part of the process of preparing the plan. This will assess the impacts of the plan and allow the plan to be adjusted in order to lessen any impacts identified.

8.00 EQUALITIES IMPACT

None

9.00 PERSONNEL IMPLICATIONS

- 9.01 There are no immediate personnel issues arising but the Council will need to employ a Programme Officer to assist with co-ordinating the Examination stage of the plan process, which could either be done via an external appointment or by offering a secondment opportunity to a suitably qualified person within the Council.

10.00 CONSULTATION REQUIRED

- 10.01 There are a number of consultation stages within the LDP process which will be identified and timetabled within the Delivery agreement when produced and finalised.

11.00 CONSULTATION UNDERTAKEN

11.01 None to date

12.00 APPENDICES

12.01 Appendix 1 Illustrative timetable for LDP preparation

Appendix 2 Schedule of immediate next steps

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

Contact Officer: Andy Roberts
Telephone: 01352 703211
Email: andy.roberts@flintshire.gov.uk