APPENDIX B

An Inquiry Report of the:

Joint Scrutiny Committee

DRAFT

REPLACEMENT LOCAL DEVELOPMENT PLAN

December 2023

CARDIFF
CAERDYDD

Cardiff Council

CONTENTS

FOREWORD

To be completed

Councillor Joel Williams
Chair, Policy Performance & Review Scrutiny Committee.

Councillor Owen Jones
Chair, Environmental Scrutiny Committee.

Councillor Peter Wong
Chair, Economy & Culture Scrutiny Committee.

December 2023

TERMS OF REFERENCE

1. To harness the power of Scrutiny Member voices and experience to add value and encourage ambition in the RLDP Preferred Strategy, focusing on district and local centres, securing planning obligations, and managing transport impacts, by:
    a. Understanding national and local policy priorities.
    b. Engaging expert and stakeholder voices.
    c. Researching good practice examples, which are capable of being replicated in Cardiff.
    d. Identifying policy 'hooks' needed in the Replacement Local Development Plan to deliver:

i. Securing Planning Obligations

- A strengthened SP6 by:
    - Exploring how current policy and process in respect of planning obligations and section 106 agreements could be strengthened.
    - Exploring how communication and narrative on planning obligations could be simplified, more accessible and transparent.
    - Addressing issues in relation to carbon neutral and biodiversity requirements.
    - Making recommendations on how future/associated SPG could be framed.

ii. Transport & Active Travel

- A strengthened T5 that ensures adequate travel infrastructure is proposed in new developments, which fully addresses the needs of communities and transport providers without negatively impacting on biodiversity and nature.

iii. District and Local Centres

- Planning Retail Policies that promote and protect vibrant, viable, busy and relevant district and local centres.
- Planning Retail Policies that enable and support strong SPG that promote and protect district and local centres.

2. To make evidence-based recommendations to shape the RLDP Preferred Strategy.

   Output/ Outcomes:

   - Gathering additional expert and stakeholder views and good practice evidence.
   - Ensure the RLDP Preferred Strategy delivers in accordance with the Well Being of Future Generations Act requirements.
   - Recommendations to the Cabinet that shape the RLDP Preferred Strategy.
   - Deliver a unified voice across all Scrutiny Committees.

Members of the Task Groups:

Securing Planning Obligations

Councillor Joel Williams (Chair)
Councillor Saleh Ahmed
Councillor Jane Henshaw
Councillor Peter Jenkins
Councillor Margaret Lewis
Councillor Helen Lloyd-Jones
Councillor Peter Wong

Transport & Active Travel

Councillor Owen Jones (Chair)
Councillor Andrea Gibson
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District & Local Centres

Councillor Peter Wong (Chair)
Councillor Mike Ash-Edwards
Councillor Garry Hunt
Councillor Helen Lloyd Jones

CONTEXT FOR INQUIRY

The Cardiff Local Development Plan (LDP) is the Council's key land use planning document. It will set out policies and proposals for the future development and use of land in Cardiff up to 2036, in line with legislative requirements. When adopted it will replace the existing structure and local plans for the city and form the basis for decisions on individual planning applications.

The LDP Preferred Strategy Report was open for public consultation for a 10-week period from 27 July to 5 October 2023. This consultation is an important stage in the preparation of the plan and offers everyone with an interest in the future development of Cardiff an opportunity to influence the plan before the Council finalises its proposals. As well as an online 'Virtual Consultation Room, the Council arranged a series of public events throughout August and September both community based and drop-in sessions.

A cross-committee Task and Finish group was created under the auspices of PRAP to give a single response from Scrutiny on the LDP preferred strategy as part of the consultation process. Membership of the task group was invited from across the scrutiny committees, with the report going back to the Policy Review and Performance Scrutiny Committee for consideration.

The Preferred Strategy Report is not the full draft plan but sets out the key issues and options within the LDP and the Council's broad proposals for addressing these.

HEADLINE FINDINGS

HF.1. The findings and recommendations of the previous Supplementary Planning Guidance Inquiry (October 2022) are relevant to the RLDP Preferred Strategy, particularly:

a. LDP policies need to be evidence-based, precisely written, detail the Council's specific requirements, the rationale for these, and the criteria where the Council will make an exception and not apply the policy. They have to contain detailed definitions, thresholds, numbers, percentages, targets and measures as relevant, set out the impact seeking to avoid (harms) and consequences if not avoided.

b. SPGs cannot be used to make or amend policy – therefore the LDP policies have to contain wording necessary to ensure requirements met. SPG provide technical guidance to support LDP policy. They must be strongly worded and strongly linked to the LDP, stating which LDP policy and paragraph it is supplementing and that it is a material consideration. They should use positive, precise language, evidence and explain how thresholds, numbers, percentages, targets and measures are calculated, evidence and explain how the impact seeking to avoid is measured and how consequences of not avoiding harm, the harms arising, are measured, and provide details on exceptional circumstances and how these are worked out and applied.

HF.2. Local authorities need to conform to the Welsh Government framework and direction as otherwise their LDP will not pass Examination. Therefore, Cardiff Council needs to ensure the RLDP policies and associated SPG incorporate and reflect Welsh Government's framework and direction.

HF.3. Crafting RLDP policies must focus on resisting harmful development and encouraging development that is in the best interests of the people who live and visit the area. Planning policies must ensure appropriate information is provided to planners and planning committee members to enable them to exercise judgement effectively.

KEY FINDINGS

SECURING PLANNING OBLIGATIONS

Existing Policy & Practice

KF.1 The system of planning obligations is a sound one, delivering benefits for councils and communities. S106 agreements are legally binding, enforceable, fair and relevant to the planning proposal. Clarity of what the Council will seek through planning obligations from developments is set out in Supplementary Planning Guidance (SPG). The SPG also provides detail of thresholds that will be sought for particular requirements, such as affordable housing or education contributions.

KF.2 S106 agreements must address the impact of a development and not seek to enhance an area. There is a risk of s106 planning obligations becoming a wish list as the list of possibilities keeps growing. The more costs there are to delivering a scheme, the less money is available for affordable housing.

KF.3 It is unclear which high level Council plans and strategies provide the context and priorities for determining planning obligations. The Cardiff Infrastructure Plan should be a clear, concise and focussed strategic document setting out the whole picture. However, it is difficult to locate, and experienced technical staff employed by developers have difficulty understanding the Councils' aspirations and priorities. The Planning Advisory Service has produced a self-evaluation tool that may prove useful to planners in reflecting on how Cardiff is performing in this area.

KF.4 S106 contributions agreed with developers are not always index linked currently. It takes up to a year to secure a s106 agreement and therefore the Council should include a clause in all agreements that contribution values are index linked.

KF.5 There is no interest paid on s106 monies held and no investment gain added to s106 projects. Any interest accrued on invested s106 monies improves the Council's capital financing position.

KF.6 S106 monies can remain unspent for many years. It is difficult to justify why this is the case and the Council was recently exposed in the press as holding £23.2 million of unspent s106 funds. All s106 agreements have a clause for the developer to request monies back should the Council not use it. Some authorities charge a 5% monitoring fee to facilitate s106 spend.

KF.7 An alternative to s106 agreements is use of the Community Infrastructure Level (CIL). Some Welsh councils use CIL, as does Bristol City Council. CIL is applied per square metre of development; however, the point of collection does not determine how the money is spent. The Council does not currently apply CIL however Bristol considers it an important source of funding, allocating monies (per £) to strategic infrastructure (80p) local area committees (15p) and administration costs (5p).

KF.8 There is a clear requirement for a dedicated staffing resource to lead on s106 agreements. S106 lead officers should be clearly identifiable and visible to all stakeholders. Cardiff has such a resource in place however there is an opportunity to raise the profile and co-ordination responsibilities of s106 lead officer(s) both internally and externally.

KF.9 There is a role for a community engagement officer on large development sites, to ensure effective integration of new and existing communities. Funding for this role should be considered a legitimate s106 request.

Improving Policy & Processes

KF.10 It appears that currently, Directorates work in silos. The RLDP presents an opportunity to improve round table representation in a joint effort to understand the priorities, particularly for larger developments. Currently no internal cross-cutting meetings take place. Where planning obligations are concerned, issues could be identified early for tackling planning obligation contributions. For example, are roads wide enough for waste removal collections? This also provides a chance for Directorates to develop internal agreements between departments on where the budget line sits.

KF.11 Whilst individual developers and external witnesses stated that they had a good working relationship with Planning, they suggested that further work on building closer working relationships across developers and commercial agencies could be developed too.

KF.12 The need for s106 discussions to start earlier in the planning process was highlighted across all witnesses. In trying to make a scheme work, it is important that all services are involved and there is complete transparency early on. There is a need for everyone being in a room together early. Early and positive engagement with officers is key to agreeing off-site alternatives/contributions in lieu.

KF.13 The Council appears to have a lack of legal resources to draft s106 agreements in a timely manner. Developers would pay their own legal teams to draft the agreement if the Council agreed and thereby speed up the process.

KF.14 In light of this, it was suggested that there is an opportunity for Cardiff to lead the way on developing a standard S106 template for S106 agreements. The s106 agreement could set out the timescales / phasing of the planning obligations in relation to the development itself. It would also present a clearer picture of what is required from the development, by both the Council and the developers. The section 106 template would also enable improved monitoring of the planned phasing and triggers to ensure the delivery is on track. If it fails to be delivered, planning enforcement can be used to enable delivery.

KF.15 To improve the current process, there is a need for enhanced monitoring. A review of the annual monitoring report could have a much better monitoring framework within it – how much is being secured? Look at timeliness of spend - how much is the Council spending? Is the Council being negotiated down in certain areas? Where and what is the Council doing about that? Do our policies need reviewing in light of this?

KF.16 In relation to "green issues" including biodiversity and carbon neutral initiatives, other local authorities stated that many councils were in the same position on this, and not much progress had been made. Further guidance and direction was awaited from Welsh Government on this issue. Stakeholders were generally supportive of the principle of green issues being part of any SPG, but with the caveat that, should the Council wish to adopt this as a priority, it should not simply be added to the list, but be part of any review into priorities – with the council being clear as to why this is now a priority, and what effect this would have on other priorities.

Supplementary Planning Guidance

KF.17 Much work in this area has been addressed by the SPG Task & Finish Group report of 2022, which can be found in the link here - Ref: RDB/SW/DB/10 (moderngov.co.uk).

KF.18 There was clear support for the SPG in this area, with many witnesses stating the policy is robust. However, they suggested that the SPG could be enhanced further – particularly around viability.

KF.19 Other local authorities' SPGs are a lot more concise, and stakeholders suggested that Cardiff could take the opportunity to revisit the size and length of the document. Stakeholders highlighted that the current SPG document includes a great deal of detail of national and local policy which is arguably beyond what would be expected to be in SPG on S106.

KF.20 Bristol stated that a SPG document takes a year to secure agreement and therefore it is important to draft a policy as foolproof to change as possible. E.g., ensure it includes clauses to ensure contribution values are index linked.

KF.21 The SPG should set out clear expectations of what is expected from developments and can deal with specific requirements where off-site mitigation would be more appropriate / feasible for particular sites.

KF.22 It is critical that the SPG is clear, accurate and there is openness between the developer and the council. Developers will always push barriers and it is only 75% into a project that the developer is in profit.

KF.23 The SPG can also provide detail of thresholds which will be sought for particular requirements such as affordable housing, or education contributions.

KF.24 Formulae in the adopted SPG linked to number of dwellings (for things like on-site provision of public open space) can break down when dealing with high-density urban sites.

Viability

KF.25 Planning obligations policy is robust, however should be enhanced further, particularly around viability. The viability report is a useful tool that provides more information with which the Council can negotiate with developers. Viability assessments allow planners to take a balanced view on s106 contributions, which is particularly important on brownfield sites.

KF.26 There is a Welsh Government pre-application pack, that now requires greater viability assessment up front, and therefore there should be less challenge expected by developers. Housing officers are of the view the Council is not allowed to publish details of viability assessments.

KF.27 There is currently no financial involvement of the Council's finance experts at the viability stage. Should there be?

KF.28 Viability assessments take a very long time to be reviewed, adding more cost to the project and delaying the start of a development. Delays are one of the biggest

issues faced by developers because there are cost implications that need to be addressed.

KF.29 The viability assessment may need to address a restricted time for the development to be delivered, with clear processes for dealing with the timescales for implementation.

KF.30 The length of time taken to complete the viability assessment process needs to be reviewed. The Council may need to be more robust about who it appoints to undertake reviews on its behalf. Currently, viability assessments take a very long time to be reviewed as the District Valuer Service used by the Council is over subscribed. There can be conflict between who is writing the viability report on behalf of the developer and who the Council uses to verify the viability report.

KF.31 There is an opportunity for greater scrutiny of viability assessment reports. Bristol City Council has adopted a full council resolution that viability appraisals be made public and available for scrutiny, and now schemes are always considered by committee.

KF.32 Bristol City Council also publish its agreed viability assessments on the Council's website (within planning obligations dedicated pages).

KF.33 The cost of viability assessments is a factor in the affordability of projects. Developers' agents report that care should be given to front-loading obligations that put an additional strain on viability, and a balance may need to be struck between timeliness and the overall cost of the obligations. Where s106 calculations are unrealistic smaller developers must pay for a viability assessment in order to demonstrate that the scheme cannot afford the calculation proposed by the Council. Note that Bristol City Council has its viability appraisals assessed by a third party, with costs charged to the applicant.

KF.34 The process of viability reporting and assessment would benefit from streamlining. A good way forward would be the production of a standard viability model and template for use across Wales.

Affordable Housing

KF.35 There is an overwhelming demand for affordable/social housing in Cardiff. This is not an unusual picture in Wales or across the UK and other local authorities are facing the same challenges in this area. There is a need to explore ways in which the Council could "unlock" other available options.

KF.36 It is important that the Council has a separate, stand-alone affordable housing policy, as the rules change frequently. A stand-alone policy (or a review of this policy if already in place) needs to be regularly reviewed and redrafted as rules change.

KF.37 Stakeholders highlighted that current policy is less robust on affordable housing and questioned whether S106 is the right vehicle to deliver - could the Council increase affordable housing levels rather than expect a range of S106?

KF.38 Viability assessments result in affordable housing being challenged, particularly on brownfield sites. Witnesses stated that some small developers may design out affordable housing from their schemes, stating in the viability report that the scheme would pose a management issue. Affordable housing is watered down due to the viability argument put forward by the developer.

KF.39 Cardiff's 2017 SPG sets out that the Council will pay £60,000 per affordable housing unit, and that this sum will be reviewed annually. However, it has only been reviewed once since 2017. Witnesses stated that this should be reviewed as a matter of priority, and that this be reviewed regularly in line with Council policy.

KF.40 The use of discounted market rents as a form of affordable housing has been used in areas such as Manchester, Leeds and Birmingham, with a 20% discount to market rent, which is owned and managed by the private sector.

KF.41 The RLDP provides the potential to revisit/review shared ownership schemes and other measures that allow people to afford to buy/rent properties. One witness suggested that if the affordable housing builds could be levelled up, it may encourage the development of more affordable housing on the same quality standards as a private home. It is acknowledged that WHQS applies to social housing.

Communications, Accessibility & Transparency

KF.42 Key stakeholders have difficulty accessing information on s106 agreements. There is great public interest in s106 obligations and clarity of communication about what the Council will be seeking through planning obligations is important. Stakeholders must be able to find information easily. Such information needs to be available, publicly communicated and obvious. It is not clear where the public can have sight of Cardiff's s106 planning obligation register.

KF.43 Members are currently seen as the route to communication with residents on s106 agreements, and it is assumed that members both drive and monitor s106 spend in their wards.

KF.44 The Council's website would benefit from a dedicated planning obligations/ s106 page. Evidence gathered suggests the following information is made accessible on these pages: overarching vision (high level Council plans; SPG etc); outcomes of viability assessments; an annual statement of new s106 contributions secured; what these contributions are; what has been spent so far; what the contributions have been spent on; in-year regular updates to include details of how and where s106 (and any other) monies are being spent on a development; details of what these are; what has been requested; a "flow of funds" showing outcomes of what the money has been spent on.

KF.45 Public opinion would benefit from a better understanding of developer contributions. Developers consider there is little public visibility of which services have been paid for with s106 monies. Therefore, a clearer narrative is required explaining that development generates s106 monies from developers, which in turn pays for improved community services.

KF.46 To improve community integration, and public understanding of developers funding of s106 agreements, the Council should ensure site boards are erected at an early stage following the granting of planning permission. These boards should state clearly that planning approval has been granted on the basis that the developer will provide X, Y & Z facilities/services (with sums allocated alongside), as set out in the s106 agreement.

KF.47 Developers consider an online toolkit would be useful, as found in several other authorities. This could be used as an early reference point, to calculate what a developers s106 contributions per square foot might be. The toolkit could also set out the Council's priorities.

KF.48 It is acknowledged that in order to deliver improvements in this area, funding would need to be found. Therefore, exploring "other" funding to develop this work is key.

TRANSPORT & ACTIVE TRAVEL

Strategic Direction

KF.49 Local and national policy has been strengthened to support the development of sustainable transport and active travel. However, the application of these policies in

relation to new developments is variable and the local authority's enforcement of policies/legislation or any planning conditions needs to be strengthened.

KF.50 Early consultation on design and master planning of new developments, must involve stakeholders and transport providers to ensure that provision/infrastructure meet the needs of the local community.

Location of New Developments

KF.51 To increase active and sustainable travel uptake, there needs to be a careful planning when developing transport interchanges.

KF.52 The Council's Active Travel Network map sets out the Council's long-term aspiration for a connected network and it must be taken into consideration when determining the location of new developments (with adequate contributions from the developers to construct those networks as appropriate).

KF.53 There have been lost opportunities to restore historic travel corridors, with previous sites allowing developers to build houses over them e.g., Ferry Road.

Design Requirements

KF.54 New developments must have local amenities provided as soon as possible; this will help reduce the need to travel.

KF.55 Prioritisation of sustainable transport in new developments would be welcomed. This could be achieved through re-allocation of road space for active travel and public transport and bus gates.

KF.56 Separate pavement and cycle ways are required to avoid conflict between different users and support public safety and confidence.

KF.57 Secure by Design policy can hinder the opportunity for providing more active travel infrastructure.

KF.58 New developments must have dedicated parking provisions for those with disabilities and include EV infrastructure.

KF.59 The separation of walking and cycling means they are of significant width (at least rural road width) impacting on habitat connectivity and general loss of natural areas currently devoid of significant visible urban infrastructure.

KF.60 There is limited active travel information on new developments regarding active travel routes and distances times to key amenities.

Connectivity

KF.61 In line with local and national policy, the Replacement Local Development Plan needs to ensure connectivity between sustainable transport and active travel.

KF.62 Travel infrastructure in new developments must link to existing network infrastructure and community services.

Access to Parking

KF.63 Secure cycle storage is needed in the city centre and other key locations to address the fear of bike crime and encourage active travel from new developments.

Challenges in providing sustainable transport services

KF.64 There are inconsistencies in when transport infrastructure is considered within development planning. Providers highlight need for the Council to better engage with transport providers to identify and determine the types of transport infrastructure and services that will need to be provided or made available at new developments.

KF.65 There is a need to ensure planning conditions that meet the active travel and sustainable transport infrastructure needs of users and providers, are effectively negotiated, and enforced by the local authority.

KF.66 Section 106 monies from city centre developments are often used to support open spaces, which are very limited. These monies should be used to improve sustainable transport initiatives in the city centre instead.

KF.67 When designing transport infrastructure, ecological requirements, and any potential ecological implications, need to be included from the outset.

Improving take up of sustainable and active travel

KF.68 New developments present an opportunity for the local authority to stimulate behaviour change by improving the accessibility of sustainable and active travel, including the provision of discount / incentives to use public transport.

KF.69 Early provision, and communication, of sustainable transport/active travel and promised local amenities in new developments would potentially reduce private car use.

KF.70 Provision of uninterrupted bus lanes and buses having priority at junctions may improve travel time and therefore make bus services more reliable.

KF.71 The local authority must recognise that any changes to policies, which support a modal shift e.g., introduction of road user charging and increased car parking chargers, will likely result in public resistance.

Exploring biodiversity issues versus transport need

KF.72 There must be strong policy that reinforces the protection of green space and reduces the possibility of selling land to developers.

KF.73 Multiple schemes for active travel and transport can fall under "permitted development", resulting in concern that relevant environmental considerations are not being made as they would in general planning applications.

KF.74 Continuous footpaths and cycleways could encourage active travel, they should also be supplemented with wide green verges that support biodiversity.

KF.75 Provision of lighting on active travel routes has a detrimental impact on ecology and dark corridors for wildlife. If possible active travel routes should not impact negatively on the environment.

KF.76 New developments when determining transport infrastructure, must fully consider the constraints imposed on existing vegetation and soil and must seek to minimise their loss and detrimental impacts on their functionality.

KF.77 Inclusion of generous and continuous soft landscape verges in new developments that help mitigate environmental losses and create a more user-friendly environment are preferred but this needs careful forward planning. Often in developments, verges are very narrow (2.0m or less) and not continuous (fragmented by access points and car-parking). Where the width and continuity of verges cannot be optimised due to overriding design considerations, specialised landscaping features can be used to help establish trees.

DISTRICT & LOCAL CENTRES

Retail Planning Policy Framework

KF.78 Welsh Government sets a clear framework and direction for retail planning policy, based on a Town Centres First policy, with the aim of ensuring centres are viable, vibrant, attractive and accessible by all modes of transport, including public and active travel. Post covid, Welsh Government has stressed the need for planning policy to enable centres to be social and economic hubs, with a range of retail and non-retail uses that serve local communities, including residential and co-working spaces. Welsh Government has also worked with the Welsh Retail Consortium on a plan to support retail in centres, *Together for Retail*, which encourages the use of

vacant units for worthwhile purposes to ensure centres are attractive and have footfall.

KF.79 The *RLDP Vision, Issues and Objectives* acknowledges the need for greater flexibility in centres, post-covid. The *RLDP Preferred Strategy* reflects the Welsh Government framework, including Building Better Places, with district and local centres referenced in several objectives and strategic policies. It sets out objectives to protect and enhance centres and encourage flexibility. Importantly, it also sets out it is seeking to encourage investment and renewal of the physical fabric of centres.

KF.80 Members heard from Tom Evans, Vice-Chair Planning Officers Society of Wales, that it is important Councils fully assess and identify within their RLDP those centres considered most appropriate to designate as social and economic hubs. This will assist the Council to focus investment into these chosen locations and will provide a framework to manage applications. Retail Planning Policies and associated SPG should be crafted to encourage vibrant, vital, attractive and accessible centres, enabling an appropriate retail/ non-retail balance and improving the quality of the centre environment.

KF.81 Members heard that it is important the RLDP provides '*teeth*' for policy needs across Council Directorates; planning alone cannot achieve everything but the RLDP is at the policy pinnacle and so sets the direction and tone for policies across the Council. Members note the Corporate Plan 2023-24 and Recovery & Renewal Strategy 2021 explicitly set out the Council's support for district and local centres, with a District and Local Centres Strategy being developed.

Retail Landscape

KF.82 Members note that there has been transformative change in the retail sector and landscape, with structural change arising due to changes in human behaviour over the last few years. Members heard from Cardiff Council officers that there has been less appetite from retailers for major stores, with a move towards medium-scale provision. Members welcome this, as enabling plurality of provision for local communities is both important and in line with the 15-minute city approach.

Retail Planning Policies

KF.83 Members note the Council is intending to carry forward existing retail planning policies R1, R6 and R7, with existing retail planning policies R4, R5 and R8 carried

forward with minor amendments to reflect updated evidence and revised policy wording. Members note the findings and recommendations of the Nexus Planning Retail and Leisure Study (January 2023), hereafter referred to as the Nexus Study, and that the Council agrees with the recommendations and will be amending retail planning policies accordingly.

KF.84 Members heard from Tom Evans, Vice-Chair Planning Officers Society of Wales, that it is important Councils think about the proactive steps they can take to achieve vibrant, vital, attractive and accessible centres and craft planning policies that will encourage this – not just retail development but other development such as health facilities, community facilities, leisure uses and also residential, for example.

Retail Strategy

KF.85 Members note the Nexus Study (January 2023) highlights the need to ensure the RLDP Retail Strategy wording reflects the greater flexibility required post-covid. Having reviewed other local authority LDP wording, Members offer the following examples for consideration for adaption for use in Cardiff:

a. Bristol Council[1] - '*aims to support Bristol's network of centres and **secure the sustainable distribution of the diversity** of town centre uses'*

Policy text

Retail development, offices, leisure (including food and drink), entertainment and night-time uses, arts, culture and tourism uses will be primarily located within or, where appropriate, adjoining the centres in the identified network and hierarchy serving Bristol.

*Centres will also be **suitable locations for community uses** including surgeries and public service facilities.*

Light industrial or small-scale distribution uses may also be appropriate in centres where they would contribute to their function and diversity.

*Development will be expected to be of a **scale and intensity appropriate** to the position in the hierarchy and to the character of the centre.*

b. Kingston Council[2] - *There is a need to ensure that the borough's town centres remain **resilient and adaptable** to challenges facing the high street. Whilst protecting both the retail and commercial function of the borough's town centres is crucial, we will seek to*

[1] Bristol Local Plan Review: November 2022 Draft Policy SSE1 – Supporting Bristol's Centres – network and hierarchy

[2] KIngston's Local Plan 2023-2041 (amazonaws.com) Point 8.30

*ensure that centres are able to **evolve and adapt** over time so that they continue to support the communities in which they are situated.*

c. Vale of Glamorgan[3] - *'the Council will adopt a **more flexible** approach to the application of Policies MG14 and 15 to give consideration to the **individual impacts** of the proposals and give weight to **the benefits** that can be secured from other non-A1 uses that can benefit the overall vitality and viability of our retail centres.... due to the current national context and the ongoing impacts of Covid-19 on the retail sector it is considered reasonable and appropriate for Development Management decisions to take a flexible approach to change of use proposals where it is considered the proposal would **benefit the centre** and contribute to the vitality, viability and attractiveness of the centre.'*

KF.86 Members highlighted that Swansea Council's LDP Review Report July 2023[4] points out the need for local planning authorities to determine what constitutes a development of a '**significant scale'**, given that Welsh Government's Future Wales strategy sets out that **significant** new retail facilities must be located within town centres. Members note the response from Cardiff Council officers that '*Significant new retail facilities are large scale retail developments and shopping centres and any new retail developments that because of their popularity/appeal are likely to attract large numbers of customers and have the potential to result in increased travel by unsustainable modes of transport. The first location for 'significant' new retail facilities is the central shopping area, which is at the head of the retail hierarchy, followed by lower order centres, and edge of centre, in line with the 'town centre first' approach*.'

R1- Retail Hierarchy

KF.87 Members reviewed the Nexus Study (January 2023) and agree with the majority of its findings, bar the statement, at point 10.9, that Cardiff is an urban authority. Members believe that Cardiff is a *predominantly* urban authority, which also has important communities in its rural areas, and that this should be acknowledged, with the planning approach taking this into account.

KF.88 In addition to the Nexus Study (January 2023) recommendations, Members heard there is a need for a vision statement for each centre that suits its geography, is realistic and sets out a compelling and fit for purpose approach. These should reflect

[3] Retail Development SPG English - March 2023 (valeofglamorgan.gov.uk)

[4] Swansea_LDP_Review_Report_July_2023.pdf point 4.4.33

the views of local stakeholders, as well as be intelligence-led. Members note this is the approach being adopted by Bristol Council[5]:

> ***A vision statement about each of the identified centres will be included*** *in the next version of the local plan. Your comments about the role of these centres will be taken into account in shaping those statements, along with the outputs of recent community engagement. Local communities, business organisations or neighbourhood plans may have already prepared visions for these locations which can form part of these statements.*

KF.89 Members are clear that these vision statements need to be included in the RLDP to enable them to be borne in mind when considering planning applications; therefore, these would be in addition to the District and Local Centres Strategy, which Members were informed would sit below the RLDP, and so would not have the same weight as the RLDP when considering planning applications.

Sequential Approach/ Test

KF.90 This Inquiry's review of other local authorities has identified that it is possible to tighten Cardiff Council's existing sequential approach by strengthening wording, setting thresholds and clarifying that preference will be given to locations that are accessible and well connected to existing centres:

a. Swansea Council[6] – existing LDP states that developers must **review all potentially suitable sites, including conversion/ re-modelling, demonstrating flexibility** and that the **onus of proof** that sites within centres have been thoroughly assessed **rests with developer**

b. Avison Young[7] **-** their report reviews existing retail planning policies and recommends making sure planning policies are written to ensure the sequential test **applies to leisure** as well as retail, given interconnectedness of these nowadays, and that they clarify that assessment of edge-of-centre and/ or out-of-centre locations should **give preference to those which are accessible and well connected to town centres**

c. Bristol Council[8] –

[5] Bristol Local Plan Review: November 2022 Draft Policy SSE1 – Point 9.5
[6] Swansea_Local_Development_Plan_2010-2025.pdf points 2.8.7 and 2.8.8
[7] eb34-retail-and-town-centre-planning-policy-advice_april-2021.pdf (stroud.gov.uk)

[8] Bristol Local Plan Review: November 2022 Draft Policy SSE1 – Point 9.20

Policy text

The vitality and viability of the defined centres will be supported and enhanced. The network and hierarchy of centres as set out in this local plan will form the focal point for uses, services, and facilities serving the surrounding population.

In order to safeguard and enhance the network and hierarchy of centres any proposals for additional main town centre uses outside the defined city, town, district and local centres will be ***subject to the requirements of the sequential test and where applicable an impact assessment.***

Planning applications for 'main town centre uses' which are not in a defined centre or not in accordance with the policies of this plan will be subject to the following sequential approach to establish that there are no available or suitable sites or premises in sequentially preferable locations. The order of preference for such uses are as follows:

i. Within designated centres ('in centre')
ii. In locations on the edge of designated centres ('edge of centre')
iii. Accessible sites which are well connected to a designated centre
iv. Other locations that are accessible by walking, cycling and public transport
v. Out of centre development of main town centre uses will only be acceptable where:
a. It can be demonstrated that there are no available suitable sites or premises in sequentially preferable locations.
*b. The proposal is of a small scale (****floorspace no greater than 200m²)*** *and aimed at providing for local needs.*

The sequential approach applies to new floorspace, extensions to existing floorspace, changes of use and applications seeking to vary previously approved details.

The primary shopping areas as shown on the Policies Map, will continue to be the focus for new retail development.

Proposals for main town centre uses outside the defined city, town, district or local centres will be subject to an ***impact assessment*** *where the floorspace of the proposed development exceeds the following* ***thresholds:***

i. Outside Bristol city centre: greater than 500m² gross floorspace.
ii. Outside a town or district centre: greater than 300m² gross floorspace.
iii. Outside a local centre: greater than 200m² gross floorspace.

The impact assessment thresholds above related to town, district and local centres will be applicable for proposals within 800 metres of the boundary of the relevant centres. Elsewhere the threshold of 500 metres applies.

KF.91 In addition, Swansea Council's existing LDP makes it clear that '*A departure to the defined hierarchy will only be considered if convincing evidence is submitted in support of a proposal to demonstrate that such development is* ***justified as an exception****, and that there would be no material adverse impact caused by the development to the attractiveness, vitality or viability of any Centre defined in the Retail Hierarchy. The policy identifies a* ***number of specific exceptional***

circumstances *where, subject to a specific need being identified, an out of centre retail or leisure proposal may be appropriate.'* [9]

KF.92 Members are aware from the previous SPG Inquiry (October 2022) that specifying exceptional circumstances strengthens planning policy. However, Members are alert to the need to very carefully craft policies to ensure only development that is of benefit is supported, in particular by ensuring that unacceptable harms are detailed, and that appropriate evidence is required; these factors are considered below.

KF.93 Members sought the views of Cardiff Council planning officers on Swansea Council's existing LDP wording and note their view that it could be possible to adapt and use parts of this policy, with additional criteria.

R4 – District Centres and R5 – Local Centres

KF.94 In addition to the Nexus Study (January 2023) recommendations, Members explored how best to frame policies to promote flexibility, encourage beneficial development and resist harmful development to ensure viable, vibrant, attractive and accessible centres. Drawing on the work of the SPG Inquiry (October 2022), Members looked at the following key mechanisms, which enable a multi-pronged approach to appropriately managing development: use of thresholds; delineating unacceptable harms; and enhancing evidence levels required.

Thresholds

KF.95 Members heard the current LDP R4 and R5 policies do not specify thresholds but the Food, Drink and Leisure Uses SPG (November 2017) specifies that ' *within existing District and Local Centres, where the proportion of non-shopping uses exceeds 60%, an application for a change of use of an active A1 retail unit for food, drink and leisure uses will be less favourably considered*' and that the LDP monitoring indicators include less than 40% A1 as a trigger.

KF.96 This Inquiry's review of other local authorities' retail planning policies has identified that some of these specify more detailed thresholds, for example delineating between use classes, primary and secondary frontages and/ or between ground floor and upper floors e.g.

- Swansea[10] – A1 minimum 50% primary frontage, 35% secondary frontage.

[9] Swansea_Local_Development_Plan_2010-2025.pdf point 2.8.16
[10] District_Centres__Local_Centres_and_Community_Facilities.pdf

- Vale[11] – non-A1 ground floor – no more than 35% primary frontage, no more than 50% secondary frontage.
- Pembrokeshire[12] – non-A1 – no more than a third Primary Frontage.
- Bristol[13] – promotes active ground floor uses.

KF.97 These examples are provided to illustrate the ways other local planning authorities have approached thresholds. Members believe this is an area that warrants consideration: the inclusion of appropriate thresholds in the RLDP, as opposed to solely in SPG, will strengthen the Council's ability to manage development, as a threshold in an SPG that is not also in an LDP does not carry weight. However considerable thought and evidence is required to ensure thresholds are set an appropriate level and in an appropriate way, to ensure the Council has a flexible approach, whilst managing adverse impacts. In addition, Members are clear that thresholds on their own will not achieve beneficial development and that it is important they are not seen as a target to aim for; there is a need to marry them with clear approaches to unacceptable harm and evidence requirements. However, Members believe that they are an essential component in a multi-pronged approach to managing development.

Unacceptable Harm

KF.98 Members are aware from the previous SPG Inquiry (October 2022) that it is essential that LDP policies set out the impact the policy is seeking to avoid (harms) *and* the consequences if these harms are not avoided, in order for the LDP policy to be as strong as possible. Members note relevant SPG should provide evidence and explain how the impact seeking to avoid is measured and how consequences of not avoiding harm, the harms arising, are measured.

KF.99 The current LDP and Food, Drink and Leisure Uses SPG (November 2017) set out amenity grounds, including noise, disturbance, anti-social behaviour, litter, fumes and smells, as well as unacceptable harms such as dead frontages, crime and fear of crime, overconcentration of similar uses, traffic, parking and access, opening hours and health and wellbeing.

[11] Retail Development SPG English - March 2023 (valeofglamorgan.gov.uk)
[12] Interim Advisory Note on Development in Town Centres - Pembrokeshire County Council September 2022
[13] Bristol Local Plan Review: November 2022

KF.100 Having considered the findings from the review of other local authorities' retail planning policies, Members believe there is scope to reflect on and tighten the wording on amenity considerations and unacceptable impacts in the RLDP policies and related SPG. Members note Swansea Council recognises that its criteria need to be reviewed considering the approaches to revitalise town centres set out in Welsh Government guidance, such as Building Better Places, and Members recognise this is also the case in Cardiff.

KF.101 There is a need for clear and robust development management criteria to deal with important local implications of non-retail use. However, there is a need to ensure these criteria are nuanced to take into account the differing impact of proposals e.g., Members heard from Tom Evans, Vice Chair – Planning Officers Society Wales, that there is a need to think about the size of units and the impact of the proposed use on the centre – a smaller unit would have less impact from 'dead' frontage thana a larger unit. This is particularly true for residential proposals, as set out later in these key findings.

KF.102 Members also note that it is possible to have LDP policies that provide the overarching framework for the retail/ non-retail balance, with further detail provided in a related SPG that can set out in more detail how specific use classes will be viewed, as is currently the case in Swansea[14] and proposed in Bristol[15] and Kingston[16].

KF.103 Members reviewed the Vale of Glamorgan Council's recent Retail Development SPG and include their wording on unacceptable impact, in the hope this is of use when phrasing the RDLP policies and related SPG:

> **unacceptable impact**[17] - *In this regard considerations would include:*
> • *Customer profile / use of the premises and whether it would increase footfall in the centre*
> • *Hours of operation / use reflecting the wider function of the centre throughout the day / evening and weekend*
> • *Shop frontage and advertising – proposals should have 'active' frontages that enhance the public realm of the centre*
> • *External impacts – traffic, congestion, servicing vehicles, noise, pollution, anti-social behaviour*
> • *Providing local employment or services*

[14] Swansea_Local_Development_Plan_2010-2025.pdf RC9 and District_Centres__Local_Centres_and_Community_Facilities.pdf
[15] Bristol Local Plan Review: November 2022 9.23
[16] Kingston's Local Plan 2023-2041 (amazonaws.com) Draft Policy KE5
[17] Retail Development SPG English - March 2023 (valeofglamorgan.gov.uk)

• Enabling the beneficial use of upper floors to the benefit of the wider retail centre
• Meeting an evidenced social need not currently met in the locality (e.g., childcare services, health care, leisure activities etc).

Impacts - *developments will need to satisfy other policy considerations such as design, impact on neighbouring amenity, environmental impacts, traffic, congestion and parking. Furthermore, consideration will need to be given to the context and current state of the retail centre to ensure that a proliferation of a particular use (such as A3 take-away food outlet) does not undermine the overall role and function of the retail centre.*

Evidence Levels

KF.104 Members are aware from the previous SPG Inquiry (October 2022) that it is important relevant SPG set out the methodology used to ascertain thresholds, numbers, percentages, targets and measures and the evidence required for these, including for unacceptable harms and harms arising, and for exceptional circumstances. Swansea Council's relevant SPG provides a useful example of this.[18]

KF.105 The other main area where evidence is required, in relation to District and Local Centres, is marketing information required when a change of use from A1 is proposed. Members believe there is scope to tighten the marketing wording in the RLDP policies and related SPG, with the Vale of Glamorgan wording providing a useful example of how this could be achieved:

Marketing[19] - *Applicants should submit a marketing report with such applications outlining the following:*
• Details the existing use or the previous use of the site / premises if vacant;
• The length of time the unit has been vacant for (if applicable);
• Details of the marketing strategy employed and its duration, including the type of use the unit was marketed for, the price / contract terms, any incentives offered, details of the site / premises particulars including its condition / state of repair, copies of advertisements placed;
• Details of the amount of interest in the unit during the marketing period – this should detail the number of queries, the type of uses sought by potential purchasers, and if known, the reason for not pursing an initial enquiry.

To demonstrate the marketing strategy was meaningful and realistic *as a minimum the marketing strategy followed should:*
• Have been undertaken for a 12-month continuous marketing period;
• Have a sale / rental price that reflects the market conditions for the current use and condition of the site / premises. If the building or site requires extensive conversion/repairs, the price should be based on the unconverted state unless the works are to be undertaken prior to completion. The price should not include any potential residential or other non-A1 use values.

[18] District_Centres__Local_Centres_and_Community_Facilities.pdf
[19] Retail Development SPG English - March 2023 (valeofglamorgan.gov.uk)

• Have 'active' marketing on site, be listed on appropriate marketing websites, use a local / regional property agent to market the site, including direct mailing to targeted businesses, and advertised in appropriate marketing literature.
• Applicants should be prepared to offer the property or site on both a leasehold and freehold basis in order to widen appeal and help ascertain the level of interest.

KF.106 Members sought Cardiff Council planning officers' views on the above marketing wording and note their view that this approach is useful in the Cardiff context.

Residential

KF.107 Members recognise the desire to increase densification and footfall in centres and the need to meet housing demand, and that providing homes at or near centres constitutes the most sustainable forms of development, providing access and good connectivity to facilities and services for recreation and meeting day to day needs.

KF.108 There is a need to think about what sort of residential the Council wishes to encourage in centres, as some residential can be appropriate but the juxtaposition of residential and centres' uses needs to be carefully balanced, with amenity considerations.

KF.109 Members heard from Tom Evans, Vice-Chair, Planning Officers Society Wales, that it is very important Councils undertake analysis to reach a position where there is clarity in regard to where residential use can be tolerated within centres. This would include understanding the form and number of units needed to maintain the vibrancy and vitality of a centre. There can be significant variation in this regard, and it is therefore important to look at the characteristics of each centre and to have an analysis of each centre to understand appropriate scale for residential and of conversion of retail to residential.

KF.110 Members heard that, whilst residential is typically on upper floors, there may be opportunities for ground floor uses to co-exist in a retail centre, but this will require a clear policy framework and understanding of the specific character and form of the relevant retail and commercial centre, as there is potential for ground floor residential to cause harm in some locations whilst in other locations, it may be beneficial.

KF.111 Members heard that key issues to consider with regard to residential use are loss and dilution of active frontage, contribution to vitality, viability and attractiveness of centres, compatibility with other uses in the same building as well as neighbouring

properties, as well as unacceptable harms and amenity considerations, as detailed in the section above.

KF.112 Members considered the approach to residential use in the following local authorities: Swansea Council, Pembrokeshire Council, Flintshire Council, Wrexham Council, and Bristol Council, and note Cardiff Council planning officers' view that the Bristol Council approach to residential uses in centres is the most appropriate to Cardiff and a practice that has policy support in the current LDP.

> ***Residential Uses*** [20]
> *New residential development which makes positive use of upper floors of properties and on underused and vacant space away from commercial frontages will be encouraged within centres.*
>
> ***Residential development***
> *Within the primary shopping areas, changes of use of ground floor frontages to residential development (that require planning permission) will not be appropriate.*
>
> *In wider centre boundaries, changes of use to ground floor residential development in centre boundaries may be acceptable where:*
> - *It has been demonstrated after a suitable period of appropriate marketing that there is no realistic prospect of securing an active use in the unit; and*
> - *where this would not, individually or cumulatively, detrimentally impact the vitality and viability of existing commercial and retail uses through fragmentation of the commercial function.*
>
> *Major development proposals will be expected to contribute to environmental enhancement and public realm improvements within the city centre, and town, district and local centres and parades.*

Other Non-Retail Uses

KF.113 Members were particularly struck by the work underway by Bristol Council to include the following in their retail planning policies:

a. Support for the Evening and Night Time Economy[21].
b. Support for temporary, meanwhile uses[22].
c. Inclusion of Agent of Change principle[23].

KF.114 Members were interested to understand Cardiff Council planning officers' views on the above and note their response that Cardiff's centres could benefit from the approach set out by Bristol Council, ensuring the vitality of centres extends through the daytime into the evening and night time and increasing viability and diversity of centres.

[20] [20] Bristol Local Plan Review: November 2022
[21] Bristol Local Plan Review: November 2022 Draft Policy SSE3
[22] Bristol Local Plan Review: November 2022 Draft Policy SSE5
[23] file (bristol.gov.uk) Bristol Local Plan Review: November 2022

KF.115 Members were also interested in Wrexham Council's policy on loss of local services, which has recently been through Examination:

> ***Policy R7: Loss of Local Services***[24] *Outside of Wrexham Town Centre, District, Local, Village and Neighbourhood Centres proposals that entail the loss of a community facility, including shops, commercial facilities and public houses and/or non-commercial facilities, including libraries and village halls/community centres ~~shopping, commercial facility or public house~~ will only be supported where:*
>
> - *The use is no longer viable and all reasonable attempts to sell or let the business have proved unsuccessful; or*
> - *A similar service is available within reasonable walking distance; or*
>
> *It can be demonstrated that the existing provision is surplus to the needs of the community. 6.156 It is important that the daily needs of communities both commercial (e.g., shopping and public house) and non-commercial (e.g., library and village hall/community centre) are reasonably met in their locality. Provision of these services locally will reduce the need to travel and help sustain local communities.*

KF.116 Members sought the views from internal witnesses and note their response that existing LDP policies (C2 and R5) protect existing community facilities and local shopping facilities, but that Wrexham Council extends this definition to include shops, commercial facilities and public houses and provides criteria that need to be addressed which must be met to support the loss. Members note officers continue that '*It can prove extremely difficult to compel such uses to be retained in some cases e.g., business in single ownership difficult where the local shopkeeper/owner or publican chooses to retire and repurposes the use for their own living accommodation'*. However, Members believe this example would not form the majority of instances and so there is merit in exploring how to make the RLDP wording on loss of local services as robust as possible.

KF.117 Members note that Public Health Wales has developed a template[25] for local authority planners to use to develop effective development management approaches to hot food takeaways.

KF.118 Members note that Kingston Council has a policy[26] restricting the oversaturation of betting shops.

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[24] Wrexham County Borough Council - Latest News (objective.co.uk) underline is Inspector's addition; strikethrough is their deletions.

[25] Microsoft Word - Wales HWHW SPG Template_v4.docx (nhs.wales)

[26] Kingston's Local Plan 2023-2041 (amazonaws.com) Draft Policy KE9

KF.119 Members asked Adrian Powis and Shelly Lynch, Co-Operative Funeral Services, for their views on how the changing nature of centres affects their services, for example the increase in cafes and restaurants and note their view that these changes have a positive impact with the increasing footfall helping to increase awareness that the Co-Operative Funeral Services is located in the centre and that people remember this when these services are needed.

R6 Out of Centre

KF.120 In addition to the Nexus Study (January 2023) recommendations, and this Inquiry's findings on the Sequential Test, set out above, Members explored how best to manage out of centre developments and avoid the loss of needed industrial land and businesses areas. Members heard from Tom Evans, Vice-Chair, Planning Officers Society Wales, that:

a. it is important to understand that out-of-centre has a role and a function.
b. LDPs need to address this and set out the role and function so there is a framework for development.
c. It is very important to have an up-to-date evidence base on existing landbanks of industrial and business areas and future demand for this, to understand whether there is a surplus.
d. If there is a surplus, it is important that the planning system ensures the effective utilisation of land that could otherwise remain vacant.
e. If evidence shows there is a need for specific alternative uses such as residential or certain commercial uses, it is important that policies are clear that the surplus land is being protected for these alternative uses.
f. If evidence demonstrates that certain existing business and industrial land provides an important role for economic growth (for investment by new business as well as allowing extension of existing enterprises) policies must be clear to protect these areas for existing uses
g. Where there is no clear evidence available, policies will need to be sufficiently flexible in their approach to the re-use of surplus land, to avoid under-utilisation of land.

KF.121 Members note Cardiff Council officers recognise the need for planning policies to be slightly firmer and more proactive, with plans for existing business and industrial

land, setting out acceptable uses, to ensure these sites are protected and are developed in line with the Council's overall aims.

KF.122 Members note that Swansea Council's existing LDP[27] contains a section on managing development proposals for established out of centre retail developments, which may be of use to Cardiff Council planners when drafting the RDLP policies.

KF.123 Members note that it is possible to estimate the impact different types of retail stores will have on existing stores. Members found this interesting, that it is possible to differentiate the impact by clientele and distance from existing provision, and pondered whether the methodology would be of assistance to the Council in estimating the impact of proposed out-of-centre provision.

KF.124 Members highlighted that some existing out-of-centre developments have become integral hubs for their local communities, such as the Pugh's Garden Centre complex in Morganstown. As such, Members wondered whether there is scope for a review of categorisation, to check whether these centres should now be categorised as a local or district centre.

R7 Strategic Sites

KF.125 In addition to the Nexus Study (January 2023) recommendations, Members note that, going forward, the Council can continue to use its placemaking role to assist in ensuring that new centres are appropriate, e.g., not enabling a large car park, working to promote local character and distinctiveness. Members note that the existing LDP has ensured retail provision is master planned for the strategic sites, with planning agreements capturing the Council's requirements e.g., NE Cardiff planning agreements specify retail floor space of 1,500 sq. metres, which is smaller than large supermarkets, and non-food retail floor space of 1,000 sq. metres.

KF.126 Members heard the Council is not receiving applications for big box retail parks; instead, it is receiving applications for medium-sized sites. However, Members are mindful that the RLDP runs to 2036 and that the market may shift again; Members therefore believe that it is prudent to phrase retail planning policy to ensure it can deal appropriately with a range of site sizes.

[27] Swansea_Local_Development_Plan_2010-2025.pdf

Relevant Supplementary Planning Guidance

KF.127 Having reviewed the existing Food, Drink and Leisure Uses SPG (November 2017) and taking into consideration the other findings of this Inquiry, it is clear to Members that the existing SPG will need to be significantly amended, in light of

a. Welsh Government's more recent relevant publications
b. the findings of the SPG Inquiry (October 2022) and
c. any changes made to retail planning policies.

KF.128 In particular, Members note the following are required:

a. Citation of all relevant LDP policies and paragraphs
b. More precise and positive language and phraseology, as detailed in the SPG Inquiry (October 2022)
c. Setting out thresholds and the methodology for calculating these
d. Consistency in terminology for unacceptable harms and clarity about how these are assessed and/ or measured.
e. Setting out exceptional circumstances and how these are worked out and applied.

Use of Planning Conditions

KF.129 Members note that planning conditions can be used to prevent future, unwanted, changes of use, including sub-division, unification, and restricting types of use to protect existing provision. Members note the current LDP and related SPG highlights planning conditions may be used and Cardiff Council planning officers' response that they have been used to control the types of uses, goods sold, size of unit, operating hours and to prevent sub-division.

Use of Local Development Orders

KF.130 Members are aware that the Welsh Government's Technical Advice Note 4[28] sets out that '*local authorities are encouraged to consider how Local Development Orders (LDOs) can assist in the regeneration of retail and commercial centres'*. Members sought witnesses' views on this and note:

a. Swansea Council does not currently use these but will look at their potential as part of preparing its RLDP; Tom Evans stated that his initial thoughts are that there are concerns with them as they remove the

[28] Technical advice note (TAN) 4: retail and commercial development | GOV.WALES

ability of planners and Members to reach a judgement on proposals, as proposals no longer need to go through the Planning Committee route.

b. Cardiff Council planning officers' view that, whilst LDO's are useful in particular circumstances, there is a reluctance to adopt LDOs due to concerns about loss of control, loss of planning fees, delay, and complication.

RECOMMENDATIONS

Having considered the evidence presented to this Inquiry, the Joint Scrutiny Committee makes the following recommendations to Cabinet:

R1. Utilise the recommendations of the Environmental Scrutiny Committee's Supplementary Planning Guidance (SPG) Inquiry (October 2022) when drafting RLDP policies and related SPG.

(HFs 1 – 3)

SECURING PLANNING OBLIGATIONS

R2. Develop/invigorate internal processes to co-ordinate s106 activities across the authority. This should include:

- A review of the Council's aspirations and priorities in relation to planning obligations and s106 to ensure that priorities are focussed, clear and understood by all. It is important that affordable housing is included as part of this review, and that "wish lists" are minimised – what does the Council NEED in terms of developments? ***(KFs2 & 34).***
- Review and streamline the viability process to speed up this process, which was highlighted as a particular challenge for all ***(KF25 - 35).***
- An appraisal of s106 contributions held by the authority to ensure that they are index linked ***(KFs 4 & 5);*** and are spent in a timely manner ***(KF6).***
- Develop and embed a process where s106 discussions can start earlier in the planning process. This was highlighted across all witnesses and across other sub-groups ***(KF12)***
- Establish an internal cross-cutting working group to improve round table representation. ***(KF10)***
- Ensure that Finance are included in discussions with the internal group and that they are included as experts at the viability stage ***(KF26).***
- Establish a working group with developers and commercial agents to further improve working relationships and dialogue. ***(KF11)***
- Consider the development and use of standardised s106 agreements with a view to simplifying the viability process, enable improved monitoring, enforcement etc. ***(KF14)***

- Review current monitoring of planning obligations/s106. This includes tightening up of the annual monitoring report framework ***(KF15)***

R3. The Council ensures dedicated and identifiable s106 officers are visible and accessible to stakeholders and ensure there is timely periodical monitoring to ensure s106 legal agreements are adhered to. This role should include:

- These officers being clearly identifiable and visible to all stakeholders ***(KF8).***
- Explore whether this officers could act as a community engagement officer on large development sites, to ensure effective integration of new and existing communities. ***(KF9).***
- Be responsible for developing, implementing and monitoring the work highlighted in this report.

R4. The Council revisit Supplementary Planning Guidance to ensure it is concise, robust and evidence based to ensure a seamless planning process. This should include:

- Further enhancements to the SPG, particularly around viability ***(KFs 16 & 17).***
- Revisit the size and length of the current document, with a view to making it more concise; clear, accurate and transparent ***(KFs 19 & 22).***
- Review the document to ensure that it includes clauses to ensure contribution values are index linked ***(KF 20).***
- Set out clear expectations of what is expected from developments ***(KF 21)***
- Provide detail of thresholds which will be sought for developments ***(KFs 23 & 24).***

R5. The Council continues to explore the delivery of affordable housing but commits to exploring additional avenues for meeting housing needs. This may include:

- Exploring ways in which the council could unlock other options available to it in relation to affordable housing ***(KFs 30, 36, 38 & 41).***
- Ensure that any affordable housing policy is regularly reviewed ***(KF 36).***
- Review whether s106 is the right vehicle for delivering affordable housing ***(KF 37).***
- Review the current status of affordable housing priority (with a view to giving it a higher status) and adjust the policy accordingly. Review the viability process in relation to affordable housing, with the aim to minimise the “designing out” of affordable housing by developers at this stage ***(KF 38).***

- Undertake a review of the value of affordable housing unit, and adjust the policy accordingly, with regular reviews set out clearly in the monitoring framework ***(KF 39).*** This review should take place as a matter of priority, and assurances given that this is reviewed regularly and line with Council policy.

R6. The Council reviews and improves accessibility and transparency of s106 agreements in Cardiff. This should include:

- Easy to find key documents, plans, information on developments and details of s106 commitments and spend ***(KFs 3 & 42).***
- Better access to information for Members and the public, to include a Protocol for communicating with Members, developers etc. ***(KFs 43 & 45).***
- Build on current mechanisms in place to develop further active community involvement and integration ***(KF 46).***
- The Cardiff LDP Website have dedicated planning obligations/ s106 pages ***(KF 44).*** Additional funding for this may need to be explored (***KF48***). Contents could include.
    - Overarching vision (High level plans; SPGs etc).
    - Annual statement of new contributions secured; what these contributions are; what has been spent so far; what the contributions have been spent on.
    - In-year regular updates to include details of how and where s106 (and any other) moneys are being spent on a development; details of what these are - what has been requested; what has been contributed; what has been spent.
    - A “flow of funds” – showing outcomes of what the money has been spent on.
    - A “ward search” function be included to enable Members, public and stakeholders to look for what is happening at this level. This should include the data/information available within the “in-year” updates highlighted above. Bristol City Council has an example of this for reference.
    - Viability assessments be published on this part of the website (***KF32***).
- Tools for assisting developers – set out planned phasing and triggers; what the priorities are; greater clarity on/ability to calculate these amounts ***(KF 47).***

TRANSPORT & ACTIVE TRAVEL

R7. The Replacement Local Development Plan's SP5 (Securing New Infrastructure) has specific provisions to ensure that new developments, irrespective of their size, location, or land use, make appropriate provision for infrastructure. In line with recommendations made on the Shaping Cardiff Post Pandemic Recovery Inquiry, SP5 must include clear, concrete conditions negotiated with developers that adequate transport infrastructure i.e., bus stops, turning circle etc, must be in place on developments as soon as they are publicly occupied, to encourage uptake of sustainable transport and active travel routes.

(KFs 49,50, 52, 54, 62, 65, 68 & 69)

R8. The Replacement Local Development Plan's SP3 (Ensuring a Master Planning Approach) must clearly specify that when new developments are agreed, developers must engage and consult with transport providers, and relevant community groups (as directed by the Council) during the master planning stage. This early and consistent consultation will ensure proposals for development sites meets both provider and user needs' and assist the council in delivering the transport modal shift, and ensure any new development is linked to, and contributes to the improvement of, existing developments and infrastructure.

(KFs 49, 50, 52, 54, 61, 62 & 64)

R9. In line with transport legislation and policy in Wales, more emphasis must be put on s106 monies allocated to city centre developments being utilised for improvements to sustainable and active travel corridors, when possible.

(KFs 49, 52, 61, 62, 65, 66, 68 & 69)

R10. The Replacement Local Development Plan's SP19 (Protecting, Compensating and Enhancing Green and Blue Infrastructure and Biodiversity), must ensure that any roads, cycleways and pavements will take into account any existing areas of biodiversity, including how maintenance and management of the areas that remain will be undertaken.

However, the Strategic Policy must remain flexible to local issues and must stipulate that when this work is managed, close working partnership is required with local.

(KFs 57, 67, 72, 73, 74, 75, 76 & 77)

R11. In line with local and national strategic direction, the Replacement Local Development Plan's SP4 (Securing Good Quality & Sustainable Design) must specify that developments must include the following features which any relevant SPG[29] will provide further details of :

- Provision of sufficient community EV charging points.
- Active travel signs/way markers, which provide route and distance information to nearest amenities.
- Quality, secure cycle storage at home (particularly for new flats & HMOs) and at local amenities.
- Sufficient road space to accommodate buses passing on main/arterial routes through new developments.
- Protection of historic travel corridors; whether in use or not, to allow their reinstatement at a later date if necessary.

(KFs 50, 58, 60, 62, 63 & 64)

R12. The Replacement Local Development Plan must ensure that cycle solutions on new developments:

- include secure cycle storage that incorporates usability standards, e.g. excluding the use of upright cycling or in hall storage in new flats and HMOs, and is compliant with Shared Regulatory Service guidance.
- have minimum standards on secure cycle storage which need to be absolute in the LDP and not just the SPG and should not impacted by the proximity of other sustainable or active travel modes but should support connectivity.
- follow Sustrans policy on active travel gates, when possible and not 'secure by design' which can exclude some users e.g. wheelchair users and those with pushchairs.

(KFs 49, 57, 61, 65 & 68)

[29] In line with the Welsh Government's LDP Development Manual and Cabinet accepted recommendations from the SPG Task and Finish Inquiry in 2022, the finalised transport policies in the RLDP should provide a clear and strong substantive policy hook to a relevant SPG that will provide specific details on the application of the policy. It is expected that the SPG will specify or cite the specific LDP policy or paragraph that it links (hooks) to and will be expanding on. A strong SPG should specify minimum standards, thresholds, numbers, percentages targets and measures, how these are worked out, and evidence why these are chosen or required. Furthermore, the relevant SPG should provide evidence on the impact that the policy is seeking to avoid and details of harms it will bring if what is required is not followed. A detailed outline checklist on what is required to ensure a relevant SPG that is strongly linked to the RLDP polies is currently being finalised as part of the accepted T&F recommendation.

DISTRICT & LOCAL CENTRES

R13. Accept and implement the recommendations of the Nexus Planning Retail and Commercial Leisure Study (January 2023), as set out in Section 10 of their report, when drafting the RLDP retail planning policies, in particular, but not limited to:

- Nexus's suggestions to amend the clause in R4 and R5 to resist continuous stretches of 3 or more units to 'non-retail, leisure or community centre uses' and, in centres where this is a particular concern, to add a specific clause resisting runs of 3 or more residential units,
- Nexus's recommendation to reference in R6 the 2,500 sq m (gross) threshold for requiring retail impact assessment (Paragraph 4.3.26 of PPW11, 2021).

(KFs 83, 85, 87, 88, 94, 111, 120 & 125)

R14. Review existing out-of-centre developments to see whether it would be more appropriate for some of these to be categorised as district or local centres, as set out in the Retail Hierarchy, given how some of these have developed over time.

(KF 124)

R15. Use the examples cited in this report's Key Findings of retail planning policies in other local authorities to robustly word RLDP retail planning policies, including:

- Enabling non-retail uses that achieve similar things for centres that A1 usage does e.g., footfall, active frontage/ window display, vibrancy.
- strengthening the wording of the retail strategy and sequential test.
- setting an appropriate threshold for retail/ non-retail use in centres, as part of a multi-pronged approach to managing development.
- drawing on the Vale of Glamorgan Council's 'unacceptable harms' wording and its' 'marketing' wording.
- framing residential use policy in terms of 'tolerating' residential use at appropriate locations if proposal is of an appropriate size and scale and not detrimental to the vitality, viability, attractiveness or accessibility of a centre
- *exploring use of the Public Health Wales template for developing effective development management approaches to hot food takeaways.*

(KFs 78, 81, 85, 86, 90 – 103, 105, - 112, 117 & 119)

R16. Consider whether to include reference to the following areas in the RLDP retail planning policies and, if so, consider the examples of retail planning policies in other local authorities highlighted in this report's Key Findings:

- Evening & Night Time Economy Uses.
- Temporary Uses.
- Agent of Change, and
- Loss of Local Services.

(KFs 113 – 116)

R17. Use the examples cited in this report's Key Findings of retail planning evidence requirements in other local authorities to strengthen the evidence base required, including:

- developing a Vision Statement for each centre, which will be included in the RLDP, that is intelligence-led and includes stakeholder engagement.
- in the RLDP, delineating and evidencing the impact on centres and local communities if unacceptable harms are not avoided, with further technical details and methodology to be contained in relevant SPG.
- undertaking analysis to determine what level and type of residential use is tolerable in centres, to ensure evidence is available to support development control.
- as a minimum, in the RLDP, adopt the Vale of Glamorgan Council's evidence requirements regarding the marketing required when a change of use from A1 is proposed.
- undertaking an analysis of demand for industrial land and business areas and, where this evidence shows there is a surplus, develop plans setting out specific alternative uses to ensure the identified surplus land is protected for these alternative uses and not available for speculative development.

(KFs 88, 89, 98 – 106, 109 & 120)

BACKGROUND CONTEXT

1. The Welsh Government (WG)[30] requires all councils to have a Local Development Plan (LDP). The document is the Council's key land use planning document, which sets out policies and proposals for future development and use of land in Cardiff between 2006 - 2026, in line with legislative requirements. Once adopted the LDP will replace the existing structure and local plans for the city and will form the basis for decisions on individual planning applications.

2. The LDP is a statutory requirement which identifies opportunities for investment and regeneration including the provision of new homes, jobs, community facilities and transport infrastructure. The Plan also identifies land that requires protection for its conservation importance and measures necessary for safeguarding our environment. It needs to balance sustainable development and conservation, whilst delivering the community's vision for the future of Cardiff.

3. In preparing the LDP, the Council must take account of a wide range of legislation, policies and other initiatives at European, national and local levels of government, including:
    - The Wales Spatial Plan
    - South East Wales Transport Alliance (SEWTA) Regional Transport Plan
    - South East Wales Regional Waste Plan
    - South East Wales Regional Technical Statement for Aggregates.

4. The LDP is tasked with:
    - Delivering sustainable development
    - Reflecting local aspirations for the city, based on a vision agreed by the local community and other stakeholders.
    - Providing a basis for rational and consistent development control decisions
    - Guiding growth and change, while protecting local diversity, character and sensitive environments
    - Showing how and where change will occur over the plan period.

[30] The Planning & Compulsory Order Act 2004

5. The Preferred Strategy therefore aims to give a broad outline of the intended level of growth in Cardiff and how it can be sustainably delivered. The strategy is a result of carefully considering a number of different factors including:
    - The national and regional policy framework;
    - A sound understanding of the local context- identifying key data and issues which the plan must take account of from the evidence base;
    - The Council's Community Strategy and LDP vision and objectives;
    - Considering the merits of different growth options; and
    - Considering the merits of different spatial options- where the best places are to accommodate new development needs.

6. The Scrutiny inquiry final report will be considered by the Policy Review and Performance Scrutiny Committee at its meeting on 13 December 2023 and offered for Cabinet consideration on 14 December 2023. Subject to Council approval, work will continue on developing the Deposit Local Development Plan. The revised timetable is as follows:
    a. Consultation on Deposit Plan – July to September 2024
    b. Examination – May 2025 to October 2025
    c. Adoption – November 2025

7. The Local Development Plan regulations require the Council to publish its pre-deposit proposals for public inspection and comment.

APPROACH TAKEN

In March 2023 the Chairs or the five Scrutiny Committees agreed that a cross committee Joint Task & Finish group should be established to scrutinise the Preferred Strategy. Nominations were sought from all committees. In April a session was held between the nominated members and Planners, to ensure everyone's understanding was the same of the process to date and the proposed timeframe going forward. The group next met again in early July after the Preferred Strategy had been agreed by Cabinet in June Council in June 2023, to agree the focus of the work of the Task and Finish Group. At the workshop in July round table discussions were held and the top three issues to consider on more detail being statutory obligations, transport and district and local centers. Councillors were also asked which task group/s they wished to participate in. Following the summer break in September the three subgroups consulted with members regarding the terms of reference for each of the groups and stake holder workshops, evidence gathering, and desktop reviews took place during October. Some of this work was frustrated by the calling of continuous strike action throughout September, October, and November, which impacted on the meetings that were able to be held in a face-to-face context initially. The report was written in November to be agreed by the overarching Task & Finish Group and then by each Scrutiny Committee in December before being presented to Cabinet in December, to allow time for recommendations to be considered for inclusion in the Deposit Plan. Therefore, there was limited time to consider the issues in detail and the work of the task groups needed to be focused.

The **Planning Obligations** task group examined how current policy and process could be strengthened; how communication and narrative on planning obligations could be simplified, more accessible and transparent; and how carbon neutral and biodiversity requirements might need to be addressed. The broad range of external and internal witnesses highlighted many positives about the Council's planning service and how it currently approaches s106 agreements. The evidence has been informed by witnesses' experience of working with many local authorities, both in Wales and England. There were also many observations as to how Cardiff Council could improve policy and process as it moves into the detailed phase of developing the replacement Local Development Plan for deposit.

The **Transport** task group reviewed how transport and active travel infrastructure on new developments (LDP policy T5 Managing Transport Impacts) could be improved without negatively impacting on nature and biodiversity. Witnesses from both transport providers and

community groups were invited to attend focus groups and commented on the lack of engagement and communication from an early, master planning stage to ensure the needs of both groups were considered at the earliest opportunity and to encourage take up of sustainable and active travel opportunities. A desktop review of the policy gaps was also undertaken to support the development of recommendations.

To inform the Inquiry, Members of the **District & Local Centre's** task group were provided with information on the policy framework for retail planning policies in Cardiff, including the policy context from Welsh Government, the existing LDP policies and relevant SPG, the review of the existing LDP and Annual Monitoring Reports, the RLPD Vision, Objectives and Issues, the RLPD Preferred Strategy (consultation draft), the Nexus Retail and Commercial Leisure Study (January 2023), the Corporate Plan 2023-24 and the Cardiff Recovery and Renewal Strategy (2021). Members also considered pertinent findings from the previous Planning Inspectorate Examination of Cardiff's proposed Deposit Plan, 2015. Also, Members were provided with a summary of relevant findings from the recent *Shaping Cardiff's Post Pandemic Economic Recovery Inquiry* (January 2023), which included findings on high streets and district and local centres post-covid, and the previous *Supplementary Planning Guidance Inquiry* (October 2022), which included findings on how to ensure tight LDP policies and strong SPG. In addition, desk-based research was undertaken to identify examples of retail planning policies post-covid from other cities in the UK that meet the Welsh Government's policy direction. A gap analysis was undertaken comparing these examples with the existing LDP retail planning policies, to identify where existing policies could be strengthened and amended in the new RLDP, to meet Welsh Government and Cardiff Council's RLDP policy direction. Members also considered publications from the Welsh Retail Consortium, the Association of Convenience Stores, and the Local Government Association, regarding the role of local authorities in assisting high streets and ensuring access to local services.

The key findings from task group activities have been used to inform the development of the recommendations that have been submitted in this report.

Further details and the evidence gathered during October by the three task groups is available on request.

WITNESSES TO THE INQUIRY

Statutory Obligations Subgroup

External:

- Jim Cliffe, Planning Obligations Manager, Bristol City Council
- Mark Harris, Policy Advisor, House Builders Federation
- Jo Curson, Director of Development, Wales & West Housing Association
- Prof Neil Harris, School of Geography and Planning, Cardiff University
- Andrew Woods, Director, Expedite and Urban Centric
- Tom Evans, Head of Planning, Swansea City Council and Chair of Planning Officers Society Wales

Internal:

- Simon Gilbert, Head of Planning
- Alison Draper, Development & Regeneration Team Leader, Housing
- Brett Andrewartha, School Organisation Planning Manager, E&LL
- Anil Hirani, Operational Manager - Capital, Corporate & Treasury, Financial Services
- Vesna Cole, Solicitor, Governance & Legal Services

Written Responses:

- Caroline Jones and Andrew Weeks, Savills
- Chris Spiteri, Director, Property Index
- Dr Roisin Willmott, Director, Royal Town Planning Institute

Transport Subgroup

External:

- Gareth Stevens – Cardiff Bus
- Alex Corsi – Adventure Travel
- Christian Reed – Stagecoach Bus
- Ryland Jones – Sustrans
- Chris Roberts - Cardiff Cycle City
- Kirsty James – RNIB
- Dan Thomas – RNIB
- Ceri Cryer – Age Cymru
- Mike Jones Pritchard – Tongwynlais Community Council

Internal:

- Jenn Griffiths – Access Forum

Written Responses:

- Kelsey Barcenilla – Transport for Wales
- Justin Groves – County Ecologist
- Ed Baker – County Tree Officer

District & Local Centre's Subgroup

External:

- Carrie McCambridge – Operations Manager, South Wales, Co-Operative Food
- Adrian Powis – Operations Manager, Cardiff, Co-Operative Funeral Services
- Shelly Lewis – Regional Manager, South Wales, Co-Operative Funeral Services
- Tom Evans – Vice-Chair, Planning Officers Society Wales

Internal:

- Cllr De'Ath – Cabinet Member, Transport and Strategic Planning
- Simon Gilbert – Head of Planning
- Stuart Williams - Group Leader – Strategic Policy
- Caren Richards – Team Leader – Strategic Policy
- Jon Day – OM Tourism and Investment

FINANCIAL IMPLICATIONS

The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications.

LEGAL IMPLICATIONS

The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without modification. Any report with recommendations for decision that goes to Cabinet / Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal power of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

COMMITTEE TERMS OF REFERENCE

The role of the Policy Review & Performance Committee is to scrutinise, monitor and review the overall operation of the Cardiff Programme for Improvement and the effectiveness of the general implementation of the Council's policies, aims and objectives, including:

- Council Business Management and Constitutional Issues
- Cardiff Council Corporate Plan
- Strategic Policy Development
- Strategic Programmes
- Community Planning & Vision Forum
- Voluntary Sector Relations
- Citizen Engagement & Consultation
- Corporate Communications
- International Policy
- Cardiff Local Development Plan
- Equalities
- Finance and Corporate Grants
- Organisational Development
- Cardiff Efficiencies Programme
- E-Government
- Information and Communication Technology
- Council Property
- Commissioning and Procurement
- Carbon Management
- Contact Centre Services and Service Access
- Legal Services
- Public Services Board

To scrutinise, monitor and review the effectiveness of the Council's systems of financial control and administration and use of human resources.

To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, joint local government services, Welsh

Government Sponsored Public Bodies and quasi-departmental non-government bodies on the effectiveness of Council service delivery.

To report to an appropriate Cabinet or Council meeting on its findings and to make recommendations on measures which may enhance Council performance and service delivery in this area.

Policy Review & Performance Scrutiny Committee Membership

Councillor Joel Williams
(Chairperson)

Councillor Mike Ash-Edwards

Councillor Bernie Bowen-Thomson

Councillor Joe Carter

Councillor Jasmin Chowdhury

Councillor Jane Henshaw

Councillor Graham Hinchey

Councillor Garry Hunt

Councillor Leonora Thomson

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