
CARDIFF LOCAL DEVELOPMENT PLAN FULL REVIEW

Reason for the Report

1. To provide the Committee with an opportunity note and discuss the Cabinet paper titled 'Cardiff Local Development Plan Full Review' in advance of it being presented at the Cabinet meeting on the 12th November 2020.

Background

2. The purpose of the Cabinet report titled 'Cardiff Local Development Plan Full Review' is to respond to legislation which requires Local Authorities to undertake a full review of their Local Development Plan (LDP) within four years of adoption.
3. Specifically, the report asks for approval to:
 - *Undertake consultation on the draft Cardiff LDP Review Report (**Appendix 1**) which proposes that a full revision of the LDP is undertaken through the preparation of a Replacement LDP for the period 2021-2036;*
 - *Undertake consultation on the Cardiff Replacement LDP draft Delivery Agreement (**Appendix 2**); and,*
 - *Report back to Council on the findings of the consultation processes and the final Review Report in March 2021.*

Background

4. The Cardiff Local Development Plan (LDP) was adopted by the Council on 28th January 2016, and sets out the Council's planning framework for the development and use of land in the city over the period 2006 to 2026.

5. An up-to-date LDP is an essential part of the plan-led planning system in Wales, and statutory measures are in place to manage the Plan review process. In this respect, the Council is required under Section 69 of the Planning and Compulsory Purchase Act 2004 to commence a review of the adopted LDP within 4 years from the date of adoption of the last LDP. As such, this report directly responds to this requirement given the LDP adoption date.
6. A draft Review Report and Delivery Agreement were originally considered by Cabinet and Council in November 2019 and were issued for public consultation in January and February 2020. The findings of this consultation exercise and a final version of the documents were due to be considered by Cabinet and Council in March 2020 with a view to formally commencing the review of the LDP in May 2020. However, this meeting was cancelled as a result of the pandemic.
7. Welsh Government guidance issued in July 2020 stated that Local Planning Authorities must reflect on the implications of the pandemic and consider consequences for LDPs under review. Given this, the original draft Review Report and Delivery Agreement have been revised to take into account the implications of Covid-19 together with other relevant contextual changes that have occurred over the last 12 months.

Draft Review Report

8. Regulations state that the full review process must be informed by a Review Report (RR) which must determine the revision procedure to be followed - specifically, whether to undertake a full or short form revision. A full revision would require the preparation of a Replacement LDP, whereas a short form revision would involve revising limited parts of the existing LDP. Guidance makes it clear that should a Local Planning Authority decide to employ the short form revision, it must be sure it can fully justify its approach as there are significant risks that this approach may be considered inappropriate and challenged since the issues involved may warrant the full revision procedure.
9. The draft RR is contained in **Appendix 1** must be subject to consultation prior to the final RR being formally approved by the Council. It considers relevant information and issues to help inform the review process and includes the following sections:

- 1) Introduction: Outlining the requirements for the draft RR
 - 2) Information and issues informing the Plan review, including:
 - Significant contextual changes with regard to national legislation and guidance, the regional/local context and evidence base;
 - Findings from LDP Annual Monitoring Reports; and,
 - Implications arising from the Covid-19 pandemic.
 - 3) Review of Plan & potential changes required: Assessing the implementation of Plan strategy and policy topic areas, to inform potential changes to be addressed through the revision procedure.
 - 4) Future evidence base requirements: Identifying which parts of the evidence base require updating.
 - 5) LDP review options including opportunities for collaborative working.
 - 6) Conclusions and next steps.
10. The draft RR concludes that the full revision procedure is considered the most appropriate option and that a replacement LDP is prepared for the period 2021-2036. In this respect, it is recognised that the significant scale, complexity and over-lapping nature of issues to be addressed in a Replacement LDP, together with the need to respond to the issues arising out of the Covid-19 pandemic, cannot justify the short form revision procedure. It is hoped that this approach will ensure that the Council will have up-to-date Plan coverage beyond 2026 and supports the Plan-led approach in Wales.
11. Importantly, the preparation of a Replacement LDP provides an opportunity to aid the recovery of the city from the impacts of the pandemic and positively respond to a national policy framework which has evolved significantly since the evidence base was collated underpinning the existing LDP. Furthermore, it enables other matters identified in the draft RR to be more fully assessed as part of a comprehensive review process which will then represent a new and updated evidence base to inform the Replacement Plan.

12. The draft RR identifies topic areas where new evidence is required to inform the Replacement Plan. It is therefore premature to be articulating potential replacement LDP strategy at this juncture. However, work undertaken to date on the draft RR shows that the starting point is completely different to the existing LDP which was faced with high official population projections and a low supply of housing sites. A Replacement LDP would overlap with the current LDP period and coupled with a 'carry over' of existing consents, would result in a far stronger supply of housing sites. In terms of demand, it is noted that Welsh Government projections issued since those informing the existing LDP have shown reduced anticipated rates of population growth.
13. The draft Cabinet report explains that there has been positive regional dialogue regarding the progression of a Strategic Development Plan (SDP) for the Cardiff Capital Region. Leaders have agreed in principle to pursue the development of a Strategic Development Plan. However, from the Council's perspective, significant uncertainties have been created by the National Development Framework, following its response to the Welsh Government's draft proposals, and the proposed establishment of Corporate Joint Committees (CJCs). These issues will be further considered by the Welsh Government in coming months, ahead of potential new legislation and adoption of the NDF early next year. The draft Cabinet report explains that it would be premature to consider a report on the SDP until there is greater clarity on these emerging matters which are of fundamental importance.
14. The existing LDP benefitted from a bespoke regional collaborative exercise to help inform the Plan strategy involving all Local Authorities and other key stakeholders in South East Wales. This process worked well and a similar approach is proposed again to help inform the Replacement LDP. Should work commence on a SDP for South East Wales, information gathered through the LDP process can be used to inform the SDP and vice versa. Ongoing dialogue with other Local Authorities will help maximise efficiencies and consistency with regard to gathering/sharing evidence and agreeing methodologies where possible.
15. In line with national guidance, consideration must be given to the scope for preparing a Joint LDP. However, it is noted that eight of the nine other Local Authorities in South East Wales are already in the process of preparing, or have already completed

their own Replacement LDPs with no examples of a joint approach. The remaining Local Authority (the Vale of Glamorgan) have not yet reached the Plan Review stage due to a later Plan adoption date and it is not considered that there are sufficient synergies to warrant the preparation of a Joint LDP. The proposed regional collaborative working approach referenced in the paragraph above is considered the most effective way of addressing cross-boundary matters.

Draft Delivery Agreement

16. In addition to the preparation of a Review Report, a Delivery Agreement also needs to be submitted to Welsh Government, demonstrating that plan preparation can be achieved in within 3½ years from the formal commencement of the review process. The draft revised Delivery Agreement consists of a timetable for preparation of the Replacement LDP and a Community Involvement Scheme. The summary timetable below sets out the key dates including statutory consultation periods, for each of the different stages of Plan preparation and publication. It also includes key stages for the Sustainability Appraisal, which is an iterative process undertaken as an integral part of the Plan preparation process.

Key Stage			
Definitive		From	To
1	Draft Review Report consultation and submission of Final Review Report to Welsh Government	Jan 2021	March 2021
2	Draft Delivery Agreement consultation and submission of Final Delivery Agreement to Welsh Government	Jan 2021	March 2021
3	Evidence Base Preparation	Dec 2020	June 2023
4	Pre-Deposit Participation <ul style="list-style-type: none"> • Launch, May 2021 • Candidate Site submission and appraisal • SA Scoping Report • Vision/Objectives/growth levels and spatial options 	March 2021	Sept 2022
5	Preferred Strategy Consultation – six weeks	Oct	Nov

	statutory consultation	2022	2022
6	Deposit Plan Consultation – six weeks statutory consultation	Oct 2023	Nov 2023
Indicative		From	To
7	Submission	March 2024	
8	Examination	March 2024	Sept 2024
9	Inspectors Report	Sept 2024	
10	Adoption by Council	October 2024	

17. The timetable of Plan preparation has Definitive and Indicative stages. Definitive stages are up to the Deposit of the Plan and are under the control of the Council. The Council has less control over the progress of the Plan after the statutory Deposit stage, as subsequent stages associated with Examination, Receipt of the Inspector's Report and Adoption is more dependent on external factors from Welsh Government and the Planning Inspectorate (PINS). As such these stages are indicative only.
18. The Community Involvement Scheme (CIS) outlines the LPA's principles of community engagement, its approach in relation to who, how and when it intends to engage with the community and stakeholders; how it will respond to representations and how these representations will inform later stages of plan preparation.
19. The pandemic has resulted in the need to revisit the consultation and engagement principles set out in the CIS. Welsh Government guidance issued in July 2020 outlines a range of different engagement options including the use of larger venues, longer consultation periods, appointments, increased use of web-based technology and other electronic means. The CIS incorporated in the draft revised DA takes into account this guidance and includes measures to respond to potential future waves of infection and the need to maintain social distancing. These include longer consultation periods, use of virtual drop in exhibitions, podcasts, on-line surveys and other electronic means aimed at accessing hard to reach groups.

20. The draft Delivery Agreement also sets out the resources that will be required to prepare the Replacement LDP together with a Risk Assessment identifying areas of uncertainty that may impact on the timetable for Plan preparation and mitigation measures required to keep the Plan on track.

Legal Implications

21. The draft Cabinet report includes the following 'Legal Implications':
- *A review of the LDP is part of the wider statutory LDP process as referred to in paragraph 21 above and the body of the report. The form and content of the LDP, as well as the procedure for its preparation and review, including requirements for the Community Involvement Scheme and Delivery Agreement, are governed by the 2005 Regulations referred to in paragraph 21. The requirements of these Regulations in relation to a review of the LDP are set out in the report.*
 - *In relation to public consultation, case law has established that any consultation process should:*
 - 1) *be undertaken when proposals are still at a formative stage;*
 - 2) *include sufficient reasons and information for particular proposals to enable intelligent consideration and response;*
 - 3) *provide adequate time for consideration and response; and;*
 - 4) *ensure that the product of consultation is conscientiously taken into account when the ultimate decision is taken.*
 - *Following public consultation, the Review Report and Delivery Agreement must be approved by full Council prior to submission to the Welsh Ministers. After the Review Report has been approved by full Council, it must be published on the Council's website and copies made available for public inspection.*
 - *The decision about these recommendations has to be made in the context of the Council's public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good*

relations on the basis of 'protected characteristics'. The 'Protected characteristics' are: • Age • Gender reassignment • Sex • Race – including ethnic or national origin, colour or nationality • Disability • Pregnancy and maternity • Marriage and civil partnership • Sexual orientation • Religion or belief – including lack of belief.

- *The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.*
- *In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan 2020-23 <https://www.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Pages/Corporate-Plan.aspx> When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.*
- *The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:*
 - 1) *Look to the long term;*
 - 2) *Focus on prevention by understanding the root causes of problems;*
 - 3) *Deliver an integrated approach to achieving the 7 national well-being goals;*

- 4) *Work in collaboration with others to find shared sustainable solutions;*
- 5) *Involve people from all sections of the community in the decisions which affect them.*

The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link:

<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

- *The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh Language.*

Financial Implications

22. The draft Cabinet report includes the following 'Legal Implications':
 - *The costs of undertaking the consultation for the draft Review Report and draft Delivery Agreement can be met from within existing resources. The financial implications of the on-going process to update the LDP will need to be considered as part of the further report due in March 2021.*

Next Steps

22. In order to provide an opportunity to comment, consultation is proposed to take place on the draft Review Report and Delivery Agreement in January/February 2021. A report on the consultation findings and recommendations will be taken to Cabinet in March 2021. Should the recommendations support the preparation of a Replacement LDP, it is proposed to report the final Review Report and Delivery Agreement to Council for approval in March 2021 and submit both documents to Welsh Government for their approval so formal preparation of the Replacement LDP can begin.

Recommendation

23. The draft Cabinet report sets out the following recommendations:
- *Cabinet is recommended to recommend that Council approve the draft Review Report and draft Delivery Agreement for the purposes of consultation and a further report is taken to Council in March 2021 with the findings of the consultation processes and recommendation(s) on the proposed way forward.*
24. The draft Cabinet report also explains the reason for the recommendation as:
- *The Planning and Compulsory Purchase Act 2004 section 69, and regulation 41 of the Town and Country Planning (Local Development Plan) (Wales) Regulation 2005 requires that a Local Planning Authority must commence a review of its LDP every 4 years from the date of its initial adoption and that such a review must be preceded by a Review Report. The LDP Manual (2020) also advises that the review process should involve engagement with key stakeholders to assist in clarifying the issues to be considered in the review process.*

Way Forward

25. Members will be asked to note the content of this Member Briefing Note, and decide if any further scrutiny is required on the matter.

Legal Implications

26. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not making 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 any modifications. Any report with recommendations for decision that goes to the 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 powers 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. Scrutiny Procedure Rules; (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.

Financial Implications

27. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not making 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. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

28. The Committee is recommended to:
- (i) Consider the information in this report and the information presented at the meeting;
 - (ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter; and,
 - (iii) Decide the way forward for any future scrutiny of the issues discussed.

Davina Fiore

Director of Governance & Legal Services

28th October 2020