

**From:** [REDACTED]  
**To:** [Fiore, Davina](#); [Shimell, Geoff](#)  
**Cc:** [Williams, James](#); [REDACTED]  
**Subject:** RE: Complaint from Cllr Michael about Cllr McEvoy  
**Date:** 05 September 2019 10:39:54  
**Attachments:** [REDACTED]

---

Dear Davina,

Councillor McEvoy makes the statement in his pamphlet ‘.we can revoke and reform the LDP..’ As James points out there is a statutory power under s68 of the Planning and Compulsory Purchase Act 2004 for the Welsh Ministers to revoke the LDP at the request of the Local Planning Authority.

The LDP was adopted having been found to be sound by the Welsh Government Inspectors following an extensive public consultation and independent examination, given the importance that the Welsh Government attach to the plan led system and as there as measures in place to address plan monitoring and review as referred to by James below it is difficult to envisage in what circumstances the Welsh Government would exercise this power. I have attached a copy of previous correspondence with Councillor McEvoy regarding revocation of the LDP for your information.

I would point out that James’ reference to the deadline for any judicial review –should be a reference to 6 weeks following the grant of outline planning permission not 6 months as stated below. Also with regard to the statement ‘planning permissions cannot be revoked’, s97 of the Town and Country Planning Act 1990 does provide a procedure for the revocation of a planning permission but it is very rarely used because it is subject to a liability to pay compensation under s107 of that Act for abortive expenditure and for any other loss or damage directly attributable to the revocation.

Regards

[REDACTED]  
Cyfreithiwr/Solicitor

ar ran Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol /  
for Director of Governance and Legal Services

Cyngor Caerdydd / Cardiff Council

Ebost/Email: [REDACTED]

Ffon/Tel: [REDACTED]

Ystafell 475, Neuadd y Sir, Glanfa'r Iwerydd CAERDYDD CF10 4UW

Room 475, County Hall, Atlantic Wharf CARDIFF CF10 4UW

---

**From:** Fiore, Davina

**Sent:** 04 September 2019 15:12

**To:** Shimell, Geoff <G.Shimell@cardiff.gov.uk>; [REDACTED]

**Cc:** Williams, James <James.Williams2@cardiff.gov.uk>; [REDACTED]  
[REDACTED]

**Subject:** FW: Complaint from Cllr Michael about Cllr McEvoy

Dear Geoff and [REDACTED]

Cllr Michel has complained that the attached from Cllr McEvoy contains incorrect info. I have asked James Clemence to confirm for me whether what Cllr McEvoy says is accurate or not and he has responded as set out below and has suggested that I ask you for your comments on this too. Thanks

Davina

---

**From:** Clemence, James <[J.S.Clemence@cardiff.gov.uk](mailto:J.S.Clemence@cardiff.gov.uk)>

**Sent:** 04 September 2019 12:25

**To:** Fiore, Davina <[Davina.Fiore@cardiff.gov.uk](mailto:Davina.Fiore@cardiff.gov.uk)>

**Subject:** RE: Complaint from Cllr Michael about Cllr McEvoy

Hi Davina,

'Plasdw'r' is made up of a number of outline planning permissions that related to LDP strategic site C, comprising 'North West Cardiff' (pp 14/02733/MJR), Land South of Pentreban Rd (pp 14/02188/MJR), Land North and South of Llantrisant Rd (14/02157/MJR) and Goitre Fach Farm (16/00106/MJR). Outline planning permission has also been granted for 'Land North of M4 J33' (pp. 14/00852/DCO) on LDP strategic site D. Overall, the number of units granted consent are as follows:

Site C – total 7,190 comprising:

14/02733MJR – North West Cardiff - up to 5,970

14/02157/MJR – Land N&S of Llantrisant Rd – up to 630

14/02188MJR – Land S of Pentreban Rd – up to 290

16/00106MJR – Goitre Fach Farm – up to 300

14/00852DCO – Land N of M4 J33 – up to 1500

C+D = 8690

The deadline for any judicial review – six months following the grant of outline planning permission - has long passed for these applications and the outline permissions cannot now be revoked by the Council or any other body, through any revocation of the local development plan or any other mechanism. To commence development following the grant of outline permission, conditions attached at outline have to be discharged and reserved matters applications have to be approved. Since the outline permissions were granted, discharge of condition applications and a number of reserved matters applications have been approved and building work has commenced on a number of development parcels. Revoking and reforming the LDP, as suggested by Cllr McEvoy, cannot stop the development on the LDP strategic sites that benefit from outline planning permission, as planning permissions cannot be revoked.

In terms of the revocation procedure with the LDP, I've copied relevant extracts from legislation, below. My understanding is that this is very much a 'back-up mechanism' built into legislation to warrant such an action in the event that exceptional circumstances emerge. You may wish to seek further advice from Vesna & Geoff on this. It is considered highly unlikely that WG are likely to exercise this power unless in very exceptional circumstances and I note there is no provision to revoke part of an LDP.

In this respect, pl. note that WG very much support the Plan-led approach and LDP review mechanisms (as opposed to revocation) are built-in to ensure that Plans remain up to date. In this way, full or partial reviews take place and once those processes have been completed, the 'old' LDP is withdrawn and replaced by the newly adopted Plan following completion of the review process. (We'll be setting out our approach to this in the October cycle- looking at going for Full Review- in form of Replacement LDP- but not in public domain at present.

Overall, in response to your question, it is therefore considered that the leaflet is not accurate but suggest you seek further advice from Geoff/Vesna to confirm.

From looking at the LDP Manual, 2004 Act and LDP Regs (see extracts below) the power to revoke an LDP rests with Welsh Government and this can be done at any time at the request of the LPA.

#### **Extract from LDP Manual**

##### *11.4 Revocation*

*11.4.1 Under section 68 of the 2004 Act the Welsh Government may revoke an LDP at the request of the LPA at any time. The LPA must remove the LDP from inspection, publicise and give notice of the fact, and take any steps it considers necessary to draw the matter to the attention of people*

living or working in the area (Regulation 39(5)).

#### **Section 68 of Planning and Compulsory Purchase Act 2004**

##### ***Revocation of local development plan***

*The Assembly may at any time revoke a local development plan at the request of the local planning authority.*

##### **Extract LDP Regulations**

##### ***Availability of adopted or approved LDP***

**39.**—(1) *Paragraph (2) applies where an LPA adopts, or the National Assembly approves, an LDP.*

*(2) As soon as reasonably practicable after the document is adopted or approved, the LPA must—*

*(a) make a copy of the LDP available for inspection at its principal office during normal office hours;*

*(b) publish the LDP on its website.*

*(3) Paragraph (4) applies where an LPA adopts, or the National Assembly approves, a revision of an LDP.*

*(4) As soon as reasonably practicable after the revision is adopted or approved, the LPA must incorporate the revision into the LDP made available for inspection and published under paragraph (2).*

*(5) Where the National Assembly revokes an LDP, the LPA must, within two weeks of the date on which the LDP was revoked—*

*(a) publish a statement of that fact on its website;*

*(b) remove the copy of the LDP made available for inspection and published under paragraph (2);*

*(c) take such other steps as it considers necessary to draw the revocation of the LDP to the attention of persons living or working in their area; and*

*(d) give notice of the revocation of the LDP by local advertisement.*

---

**From:** Fiore, Davina

**Sent:** 03 September 2019 16:44

**To:** Clemence, James

**Subject:** Complaint from Cllr Michael about Cllr McEvoy

Hi,

Cllr Michel has complained that the attached from Cllr McEvoy contains incorrect info. I am sorry to bring you into this, but please could you confirm for me whether what Cllr McEvoy says is accurate or not? Thanks

Davina

**From:** Marr, David  
**Sent:** 22 December 2016 15:39  
**To:** Gilbert, Simon; Clemence, James; [REDACTED]  
**Subject:** FW: Motion for January

Dear Simon, you will find the e-mail trail below self explanatory. Are you able to help with the issue of links?

David Marr

Rheolwr Gweithredol ac Cyfreithiwr ar ran Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiad  
Operational Manager and Solicitor, for Director of Governance and Legal Services

**Pwysig:** *Caiff y wybodaeth sydd yn y neges hon, ac mewn unrhyw ymateb neu atodiad, ei darparu neu ei derbyn er mwyn darparu neu geisio cyngor cyfreithiol, neu gyngor a roddir mewn cyd-destun cyfreithiol, ac o ganlyniad gallai fod yn destun braint gyfreithiol broffesiynol - cysylltwch a mi cyn ei dangos i unrhyw berson arall.*

**Important:** *The information in this message, and in any reply or attachment, is provided or received for the purposes of obtaining or providing legal advice, or advice given in a legal context, and may therefore be subject to legal professional privilege - please refer to me before disclosing to any other person.*

---

**From:** McEvoy, Neil (Cllr)  
**Sent:** 22 December 2016 15:32  
**To:** Marr, David; Orders, Paul; Fiore, Davina  
**Cc:** 'Neil McEvoy'  
**Subject:** RE: Motion for January

We have a political policy which will be implemented, if a majority agree. I refer you to the Well Being of Future Generations Act. Cardiff's LDP flies in the face of it. I would suggest there are plenty of professional reasons.

I will look at the WFGA which was not in force when the LDP was adopted and draft that in.

As a note for post May 4th, officers do not make policies. I expect officers to enable any political positions voted upon.

I am examining the whole of the LDP, where could I find links for every document ? I do mean every document.

I thank you in anticipation of your cooperation.

Best wishes,

Neil

Sent with Good Work ([www.blackberry.com](http://www.blackberry.com))

---

**From:** Marr, David <[D.D.Marr@cardiff.gov.uk](mailto:D.D.Marr@cardiff.gov.uk)>  
**Date:** Thursday, 22 Dec 2016, 11:24

---

**To:** McEvoy, Neil (Cllr) <[NMcEvoy@cardiff.gov.uk](mailto:NMcEvoy@cardiff.gov.uk)>, Orders, Paul <[Paul.Orders@cardiff.gov.uk](mailto:Paul.Orders@cardiff.gov.uk)>, Fiore, Davina <[Davina.Fiore@cardiff.gov.uk](mailto:Davina.Fiore@cardiff.gov.uk)>  
**Subject:** RE: Motion for January

Dear Councillor McEvoy

You may if you wish remove the words *“as amended by the Government of Wales Act 2006”* since when you refer to Section 68 of the Planning and Compulsory Purchase Act 2004 it is implicit that you refer to the current version of Section 68. I am advised by our planning lawyer, who has also checked with the Welsh Government, that any decision would lie with the Welsh Ministers, specifically the Planning Minister.

Apart from that, I would suggest that the Motion is not clear enough about how it is to be implemented. It would not be effective for the Council to simply write to the Assembly asking for the LDP to be revoked on the basis that it is ‘flawed.’ There would have to be a properly written case made out giving substantive professional reasons for revocation. Your Motion does not make a case. In the normal course of events, if the Council was minded to seek revocation, it would instruct an officer to report back to it with a draft case for approval for submission to the Assembly. The difficulty, as you will be aware from correspondence with the Head of Planning, is that the Council’s professional officers cannot make a case.

It is a matter for you as to how you might overcome this difficulty, but as your Motion is presently worded it could not be implemented in any manner which is effective.

Kind regards

David Marr  
Dirprwy Swyddog Monitro  
Deputy ~Monitoring Officer

Cyngor Dinas Caerdydd/The City of Cardiff Council  
Ystafell 465/Room 465  
Neuadd y Sir/County Hall  
Glanfa’r Iwerydd/Atlantic Wharf  
Caerdydd/Cardiff  
CF10 4UW/CF10 4UW

Ffon/Tel: 029 2087 2497  
Ffacs/Fax: 029 2087 2372  
E-bost: [d.d.marr@caerdydd.gov.uk](mailto:d.d.marr@caerdydd.gov.uk) E-mail:[d.d.marr@cardiff.gov.uk](mailto:d.d.marr@cardiff.gov.uk)

---

**From:** Marr, David  
**Sent:** 19 December 2016 09:17  
**To:** McEvoy, Neil (Cllr); Orders, Paul  
**Subject:** RE: Motion for January

Dear Councillor McEvoy

We will check the position and get back to you

Kind regards

David Marr  
Rheolwr Gweithredol ac Cyfreithiwr ar ran Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiad  
Operational Manager and Solicitor,for Director of Governance and Legal Services

Cyngor Dinas Caerdydd/The City of Cardiff Council  
Ystafell 465/Room 465  
Neuadd y Sir/County Hall  
Glanfa'r Iwerydd/Atlantic Wharf  
Caerdydd/Cardiff  
CF10 4UW/CF10 4UW

Ffon/Tel: 029 2087 2497

Ffacs/Fax: 029 2087 2372

E-bost: [d.d.marr@caerdydd.gov.uk](mailto:d.d.marr@caerdydd.gov.uk) E-mail:[d.d.marr@cardiff.gov.uk](mailto:d.d.marr@cardiff.gov.uk)

---

**From:** McEvoy, Neil (Cllr)  
**Sent:** 18 December 2016 21:28  
**To:** Marr, David; Orders, Paul  
**Subject:** FW: Motion for January

Sent with Good Work ([www.blackberry.com](http://www.blackberry.com))

---

**From:** McEvoy, Neil (Cllr) <[NMcEvoy@cardiff.gov.uk](mailto:NMcEvoy@cardiff.gov.uk)>  
**Date:** Sunday, 18 Dec 2016, 12:34  
**To:** Fiore, Davina <[Davina.Fiore@cardiff.gov.uk](mailto:Davina.Fiore@cardiff.gov.uk)>  
**Subject:** Motion for January

Davina,

Can you approve the wording below ? I'm seeking advice on who exactly can revoke the LDP. The Government? The Assembly? The Minister ? I have had conflicting advice on 2004 & 2006 clauses.

This Council:

1. uses Section 68 of the Planning & Compulsory Purchase Act 2004, as amended by the Government of Wales Act 2006 in order to demand on behalf of the people of Cardiff the revocation of Cardiff's flawed Local Development Plan.
2. Calls on the Welsh Government to legislate to protect Cardiff's green field spaces in the interim if no established Local Development Plan.

Thanks

Sent with Good Work ([www.blackberry.com](http://www.blackberry.com))