

# **LOCAL DEVELOPMENT PLANS WALES**

## Foreword by Carwyn Jones AM, Minister for **Environment, Planning and Countryside**



Planning is a key component in delivering sustainable development in Wales and development plans are a key part of the planning system. The challenge of making development plans deliver will only be met if system changes are accompanied by a recognition by all of the critical role of development plans in promoting and controlling change in our cities, towns and rural areas.

The Assembly Government is firmly committed to reformed and re-energised development plans as a flagship of its planning reforms as outlined in the *Planning: delivering for Wales* programme.

This document represents the policy core of the new development plan system, local development plans (LDPs). The change that this new system brings about goes to the heart of the reforms to the planning system in Wales, which are intended to make the planning system:

- Open fair and transparent;
- Inspire public and business confidence;
- Deliver improved quality and speed;
- Integrate with other plans and programmes; and
- Deliver the Assembly Government's aspirations for the planning system

Also key to the operation of the development plan function in Wales are sections 38 (Development Plan) & 39 (Sustainable Development) of the Planning and Compulsory Purchase Act 2004. Amongst their requirements are:

- bodies or individuals which exercise the function of development planning to carry out that function with the objective of contributing to the achievement of sustainable development (see section 39(2)); and
- bodies or individuals who make planning determinations to do so in accordance with the development plan unless material circumstances indicate otherwise (see section 38(6)).

LDP Wales is a product of extensive government consultation in 2004 (LDP policy and principles) and 2005 (draft Commencement and Transitional Provisions, and LDP Regulations). The Wales Planning Forum and LDP Stakeholder Group<sup>1</sup> have provided invaluable support in developing our policy.

The challenge now is for everyone involved to participate in the process of securing a truly plan-led system in Wales and to deliver sustainable change in our cities, towns and rural areas.

A handwritten signature in black ink, appearing to read 'Carwyn Jones', written in a cursive style.

Carwyn Jones AM

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<sup>1</sup> See Annex D - bodies represented on the Wales Planning Forum and the LDP Stakeholder Group

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## **CONTEXT FOR LOCAL DEVELOPMENT PLANS (LDPs)**

### **Introduction**

1.1 The planning system should provide for an adequate and continuous supply of land to meet society's needs in a way that is consistent with overall sustainability principles and objectives. As a land use policy framework, development plans are a key statutory function of local planning authorities<sup>2</sup> and set the context for their decision making in line with national policies. As a matter of principle, they should:

- i. Be clearly related and central to other levels of plan making;
- ii. Be effective in delivery of local aspirations;
- iii. Be straight-forward to process, responsive to change, and regularly monitored and updated;
- iv. Inspire confidence in stakeholders: ensuring that developers know that their planning applications will be dealt with consistently, transparently and efficiently, and that communities know that their views will be properly considered and will influence outcomes;
- v. Integrate land use planning decisions with the programmes and activities of others, such as infrastructure service providers; and
- vi. Act as an effective tool for the delivery of sustainable development.

1.2 To meet their required function, development plans must set out an authority's objectives for the development and use of land in its administrative area and general policies to implement them. They also should:

- i. reflect longer term local aspirations, based on a vision agreed to by the community and stakeholders;
- ii. provide a plan-led strategy, specific to the area covered, to act as a basis for rational and consistent decisions about the use and development of land;
- iii. guide growth and change within the context of sustainable development while protecting and enhancing local character and sensitive environments;
- iv. identify interdependencies and relationships between places both within and across administrative boundaries; and
- v. contain clear and concise statements of how places will change over the plan period (i.e. the next 10 to 15 years).

### **Plan Requirement**

1.3 Part 6 of the Planning and Compulsory Purchase Act 2004<sup>3</sup> requires each authority in Wales to prepare a local development plan (LDP) for its area (section 62 of the 2004 Act). This requirement will build upon the substantive work that many authorities have undertaken in developing their unitary development plans (UDPs) since 1996, including consultative processes, gathered evidence and policy development. The LDP will be the development plan for each county or county borough council and each National Park, superseding the UDP or any other existing development plan.

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<sup>2</sup> Throughout this document, the term "authority" is used to refer to a planning authority responsible for the preparation of an LDP. Each of the three National Park Authorities in Wales is a local planning authority and is required to prepare an LDP for its area.

<sup>3</sup> 'the 2004 Act'

**1.4 LDPs should be prepared as soon as possible; a particularly high priority should be given to doing so in areas where the adopted development plan is not up to date.**

In addition to the 2004 Act, the procedures for LDP preparation are set out in The Town and Country Planning (Local Development Plan)(Wales) Regulations 2005<sup>4</sup>. Authorities should give adequate priority to plan preparation and review and improve their handling of the plan preparation and review process through good project management. There is considerable scope for authorities to learn from the experience of others. The *Local Development Plan Manual*<sup>5</sup> provides more detail on how to prepare LDPs.

**National Policy<sup>6</sup>**

1.5 The Assembly Government's national land use planning policies are set out in *Planning Policy Wales*<sup>7</sup> and *Minerals Planning Policy Wales*<sup>8</sup> supplemented by Technical Advice Notes and Circulars and by Ministerial Interim Planning Policy Statements. Authorities in Wales must have regard to national policy, including to the Wales Spatial Plan (section 62 of the 2004 Act), in the preparation of LDPs. The Wales Spatial Plan<sup>9</sup> integrates the spatial aspects of national strategies, including social inclusion and economic development, health, transport and environment policy and thus translates into practice the National Assembly's sustainable development duty.

1.6 Under section 62 of the 2004 Act, LDPs are also required to have regard to:

- i. the Regional Spatial Strategy for any adjoining region of England;
- ii. the community strategy or strategies for the area of the plan; and
- iii. the resources likely to be available for implementing the plan.

1.7 The LDP Regulations prescribe that LDPs must also have regard to the following (Regulation 13):

- i. Waste Strategy for Wales and Regional Waste Plans;
- ii. Local Transport Plans and other policies prepared under section 108 of the Transport Act 2000;
- iii. Local Housing Strategies; and
- iv. Major accident prevention and limitation

**Materiality and Weight**

1.8 The statutory development plan will continue to be the starting point in the consideration of planning applications for the development or use of land. Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise (section 38(6) of the 2004 Act). The development plan, therefore, provides the essential framework for rational and consistent decision making. Policy on the weight to be attached to policies in emerging plans is contained in paragraph 3.5.1 of *Planning Policy Wales* (also see paragraph 7.8 below).

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<sup>4</sup> 'The LDP Regulations'

<sup>5</sup> '*The LDP Manual*' – Consultation draft issued in September 2005; to be issued by the Welsh Assembly Government in final form in early 2006.

<sup>6</sup> The powers of the National Assembly for Wales in relation to development plans have been delegated to the Welsh Assembly Government (the Assembly Government).

<sup>7</sup> *Planning Policy Wales*, (Welsh Assembly Government, March 2002).

<sup>8</sup> *Minerals Planning Policy Wales*, (Welsh Assembly Government, December 2000).

<sup>9</sup> *People, Places, Futures – The Wales Spatial Plan*, (Welsh Assembly Government, adopted by the National assembly for Wales on 17 November 2004).

## **Collaborative Working**

1.9 Consultation and collaboration is needed between authorities, and with other organisations as appropriate, to consider issues which affect more than one authority. The Wales Spatial Plan process sets objectives for collaboration in the Wales Spatial Plan areas. Other existing cross boundary work by various groups should be integrated into LDPs where relevant, including:

- i. Regional Planning Strategies;
- ii. Regional economic development or regeneration strategies;
- iii. Regional housing strategies;
- iv. Regional Public Transport strategies;
- v. Regional Waste Plans; and
- vi. Regional Technical Statements for Aggregates.

1.10 The results from new or existing collaborative work may inform LDP preparation on:

- i. economic opportunities, including tourism and commerce, and the general location of strategic employment sites;
- ii. population change and household formation;
- iii. broad measures of housing need and distribution;
- iv. transport links and accessibility;
- v. rural change;
- vi. broad considerations for environmental protection and, in appropriate areas, the possible need for Green Belts;
- vii. mineral resources and supply;
- viii. water resources and flood risk;
- ix. waste management strategies;
- x. energy resources and supplies;
- xi. coastal issues;
- xii. climate change; and
- xiii. social, cultural and heritage issues, including the well-being of the Welsh language.

1.11 To have weight in any LDP examination, collaborative reports should:

- i. have involved stakeholders in the process;
- ii. set out strategic information gathered, options considered and strategic conclusions reached;
- iii. be appropriate for incorporation into the Wales Spatial Plan; and
- iv. be in a form which will be widely understood and can be readily applied in LDPs.

1.12 The process of collaboration on planning issues should be focused, allocated sufficient resources by authorities to ensure its effectiveness and co-ordinated with the work by other relevant collaborative groups. Such work should produce benefits and resource savings by contributing to the speedier preparation of LDPs. However, while LDPs already being prepared should take account of the existing and emerging collaborative work, their preparation should not be delayed because of it. Both the work of the collaborative groups in



relation to strategic issues, and the preparation and review of LDPs, will be on-going processes.

### **LDP and Community Strategies**

1.13 County and County Borough Councils have a duty to prepare community strategies under the Local Government Act 2000<sup>10</sup>. Guidance on preparing community strategies is issued by the Assembly Government<sup>11</sup>. Community strategies<sup>12</sup> should provide the overarching strategic framework for all the other plans and strategies for the local authority. LDPs should express, in appropriate land use planning terms, those elements of the community strategy/ies that relate to the development and use of land provided that they are in conformity with national and international policy and obligations.

1.14 The benefits from creating more effective integration<sup>13</sup> will include:

- i. an integrated approach to future sustainable development;
- ii. a joined-up approach to community planning, allowing LDPs to be based on a clear understanding of community needs;
- iii. recognition of the LDP as a key delivery mechanism for land use aspects of community strategies and related local strategies;
- iv. economies of scale in terms of resourcing community strategies and LDPs, including potential to share processes e.g. consultation, monitoring, sustainability appraisal etc;
- v. potential to resolve conflicts between community aspirations and national policy objectives by engaging with a wide range of stakeholders; and
- vi. positive contribution that planners can make to the community strategy process.

1.15 When preparing an LDP, authorities should liaise closely with the Local Strategic Partnership(s) to ensure that the community strategy/ies contains realistic assumptions about the statutory constraints and the resources available to the authority.

### **LDP and Other Strategies**

1.16 Authorities should also consider the relationship of their LDP to other local adopted strategies<sup>14</sup>, including:

- i. economic development and regeneration strategies;
- ii. Agenda 21 or environmental strategies;
- iii. Local Biodiversity Action Plans;
- iv. Local Housing Strategies;

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<sup>10</sup> Community strategies are not prepared by National Park Authorities.

<sup>11</sup> *Preparing Community Strategies – Guidance to Local Authorities from the National Assembly for Wales*, (August 2001); also, *Community Strategies Leaflet*, (2002). (The Assembly Government intends to revise guidance within the next few months.)

<sup>12</sup> In national park areas the National Park Management Plan will reflect the relevant community strategy/ies for the National Park area, and should inform the LDP.

<sup>13</sup> Principles included in: *The Relationships between Community Strategies and Local Development Frameworks* (ODPM, October 2003) may also be of benefit in relation to LDPs

<sup>14</sup> The Welsh Assembly Government has consulted on proposals for plan rationalisation which would entail reducing the number of plans and strategies local authorities are required to produce. In addition to the LDP the consultation paper proposed that authorities would be required to prepare three further strategies - a community strategy; health, social care and wellbeing strategy; and, a children and young people's plan. It is envisaged that the new framework would be in place by 2008.

v. Local Transport Plans.

1.17 Local Transport Plans (LTPs) are a central component of the Assembly Government's strategy for delivering integrated transport<sup>15</sup>. The transport implementation programme and long term strategy of the LTP should be consistent and integrated with the LDP strategy. National Park Authorities, although not responsible for the preparation of LTPs, should participate in LTP preparation and review for their constituent areas to ensure full integration with their LDPs.

1.18 Some LDP and transport issues are unlikely to be confined to a single local authority administrative area. Four Regional Transport Consortia have been established to consider strategic transport issues. They have produced Regional Public Transport Strategies and will be responsible for producing the next round of LTPs (to be called Regional Transport Plans). The work of the Regional Transport Consortia should contain an agreed strategic framework for transport policies and proposals to be included in LDPs.

### **Resources**

1.19 LDPs should have particular regard to the prudent use and conservation of finite or non-renewable resources such as water and energy, and the need for sustainable development. Assumptions should be in broad terms and should not attempt an unrealistic degree of precision.

1.20 All authorities must have regard to the resources likely to be available for implementing the plan (section 62 of the 2004 Act), and the implications for public sector capital expenditure must be considered when preparing LDPs. LDPs should take account of the financial policies of the various implementing agencies and the availability for use of land, labour and other material resources, and make realistic assumptions about the resources (both public and private) likely to be available.

### **Blight and Avoiding Blight**

1.21 In preparing its LDP, an authority should ensure that adequate provision is made for development and infrastructure provision. It is important that proposals are realistic and likely to be implemented during the plan period; this will assist in keeping blight to a minimum. Once an authority publishes a deposit LDP which it proposes to adopt, in accordance with Regulation 17, this will trigger the planning blight provisions, as will the publication of proposals to revise or replace an adopted LDP.

1.22 Where circumstances change so that there are proposals in an adopted LDP which are no longer likely to be implemented, the authority should take the necessary action to ensure that this is clear to those using or referring to the plan. This is particularly important in cases such as proposals for major development or infrastructure projects (e.g. road proposals) where uncertainty of the likelihood of projects proceeding can lead to perceived blight to property owners in the vicinity. The best way of removing such proposals from the plan is through a formal alteration to the plan. The annual monitoring report (AMR) is a useful tool to highlight necessary changes (see paragraphs 4.42-44 below). However, it is recognised that decisions not to proceed with proposals may be taken on a timescale that does not match that for the annual monitoring and the review of a plan and subsequent decisions on alterations to, or replacement of, the plan. Therefore, where a firm decision has been made not to proceed with a proposal (e.g. through a formal council resolution), the authority should ensure that the decision not to do so is made available to the public. This is best done by ensuring that copies of the resolution (or other appropriate document) are made available for

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<sup>15</sup> Advice on the content of LTPs is set out in *Guidance on Local Transport Plans in Wales*, (Welsh Assembly Government, September 1999).

public inspection. The authority may also wish to inform directly those whose land or property may have been affected, and others as they think fit. Authorities should be aware that taking this approach does not equate to a formal alteration to the plan. In terms of section 38(6) of the 2004 Act, the proposals in the plan will remain unaffected. The record of the decision by the authority that the proposals will not be taken forward will, however, be a material consideration in respect of any subsequent planning application or appeal. The authority should ensure that the decision not to proceed with the proposal is incorporated in the next set of alterations to the plan or its subsequent replacement.

## 2. PLAN FORM AND CONTENT

### LDP Components

2.1 The development plan should comprise a strategy and integrated set of policies and site specific proposals<sup>16</sup> that are linked to the vision of the relevant community strategy/ies. It should be based on prudent use of resources, a clear understanding of the economic, social and environmental needs of the area and any constraints on meeting those needs. **The ‘soundness’ of the plan is something that will be tested at examination and should therefore be a key consideration of the authority in preparing its LDP.** The strategy and the policies of the LDP should:

- i. relate to the geography of the area and be founded on physical and demographic characteristics, internal and external connections and relationships with neighbouring areas;
- ii. emphasise the means and timescale by which the objectives derived from the vision will be met;
- iii. be underpinned by comprehensive and credible evidence;
- iv. be positive, emphasising the outcomes required to meet the authority’s vision;
- v. be capable of implementation and clear about methods of monitoring;
- vi. be in plain language, unambiguous and easily understood by all those who need to know about the planning policies and proposals which apply in the area; and
- vii. be prepared ensuring that interactions between plan policies are fully considered.

2.2 Plans should contain an overview of their contextual and analytical basis; the detailed factual basis should be contained in clearly cross-referenced technical / background documents. A plan summary and a full list of contents will help to make the plan more accessible. Though LDPs must have regard to national policies they should not repeat them, but rather explain how they apply to the local area. In exceptional cases there may be justifiable reasons for exceptions to national policy, which would need to be supported by robust evidence. Where the use of the Welsh language is part of the social fabric of a community, the needs and interests of the language should be taken into account in the formulation of policies set out in the plan (section 2.10 of *Planning Policy Wales*).

2.3 Plans should indicate any land use policies to be applied within any areas designated through other regimes. Plans should not duplicate provisions in other legislative regimes, for example, in environmental health, building regulation and health and safety legislation. The policies should not include statements of intent or descriptions of administrative arrangements. Plans should not seek to designate areas where special facilities or grants will be available, or where special consultation arrangements will apply.

2.4 LDPs should include a limited number of succinct area wide policies, focussing on an area’s main needs and opportunities. The needs of all sections of the community should be considered in determining the approach and style of the plan and its policies. Jargon should be avoided; where it is necessary to use technical terms, these should be explained in a glossary. LDPs should not include policies to cover every eventuality nor should they be long, complex, vague or over-detailed. This will facilitate plan preparation and adoption, provide good guidance for plan users and make development control decisions less complicated and more transparent.

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<sup>16</sup> A proposal is a type of policy.

2.5 Policies may relate to the whole or part of the plan area, setting out the tests which will be used to judge whether a development should be permitted on individual sites. Too many site specific policies can lead to an inflexible plan which may become outdated and need early replacements or alteration as circumstances change.

2.6 Authorities should consider setting out the plan in such a way to facilitate the easy review and alteration of that plan at a subsequent date. For example, it may be possible to undertake selective reviews of parts of a plan on a geographical basis if the adopted plan includes separate sections with specific policies and proposals for sub-areas within the plan. This will also provide flexibility to deal with issues that arise in a particular area which were not apparent when the plan was originally adopted.

### **Form and structure of the LDP**

2.7 An LDP must (Regulation 11);

- i. have a title comprising the name of the area of the authority and the type of plan (i.e. Local Development Plan); and
- ii. identify the status of the document, and the date of production of the emerging plan or of adoption (on every page of the document so that there is no doubt about the status of any extract used at any stage).

As a matter of good practice an LDP should,

- i. be a single document; and
- ii. include the plan period and plan base date.

2.8 The LDP should include the following elements:

- i. Introduction;
- ii. Strategy based on a vision and comprising:
  - a. key aims and objectives;
  - b. key policies;
  - c. broad location for development;
  - d. spatial interpretation of this strategy;
  - e. key monitoring targets and indicators; and
  - f. key diagram;
- iii. Area-wide policies for all development and/or development types;
- iv. Allocations of land and related sites;
- v. Specific policies and proposals for key areas of change or protection;
- vi. Reasoned justification for policies; and
- vii. Proposals map on a geographical base (with inset maps, where appropriate).

#### ***- Introduction***

2.9 The introduction should be brief and make clear the role and purpose of the plan and the framework within which it is prepared; i.e. national policy and strategies, local context and the Community Involvement Scheme (see section 4). It should summarise the influence of the Wales Spatial Plan, relevant collaborative / cross boundary work, the sustainability appraisal and Strategic Environment Assessment (SEA) (see section 3) on the plan's contents. It should also explain the plan's relationship with the authority's other strategic

policies and programmes and with the planning policies of neighbouring authorities and provide an outline of how the plan will be monitored.

*- Strategy*

2.10 The LDP should address the unique economic, environmental and social characteristics, opportunities and issues of the area. It should be based on a **vision** of the future which should be clear, realistic and based on the objectives and priorities of the relevant community strategy/ies. It should incorporate the land use aspects of the community strategy/ies, including identifying the priority of related actions. The LDP strategy should include the vision, a concise statement of the plan's **key aims** and **objectives**, the means of achieving them (including **key policies**, the **spatial strategy**, and **key targets** or **indicators**), and have regard to the likely level of both public and private sector resources available. The strategy should provide a transparent guide to what will be achieved by the implementation of the plan. A **key diagram** could illustrate in a diagrammatic format the broad strategy for the plan area.

2.11 Clear **key targets and indicators**, including those for housing provision (general and affordable), will assist the annual monitoring of the implementation and effectiveness of policies in the plan, and give a clear indication of how the policies and proposals will be implemented, by whom, and when.

2.12 The strategy should indicate the **broad locations** for development including:

- i. substantive growth areas, including individual major and strategic developments likely to have a significant effect on the plan area (e.g. a large urban expansion);
- ii. locations for specific types of substantive developments (e.g. housing, leisure, employment and waste sites); and
- iii. areas of restraint on development (e.g. green wedges, sites of nature conservation importance).

*- Area-wide policies*

2.13 The LDP should contain a succinct set of **area wide policies**, which set out the general criteria against which planning applications for the development and use of land and buildings will be considered. Such policies will ensure that development accords with the vision and objectives set out in the strategy.

2.14 Where it is not possible to identify allocations to meet the identified needs of the area, **criteria-based policies** related to the plans objectives should be used to set the framework for assessing any unforeseen proposals, such as windfall development.

2.15 Authorities should avoid producing a compendium of use-related policies, which can be repetitive and quickly become out-of-date. The focus, instead, should be on topic related policies such as residential amenity; biodiversity, landscape, heritage and natural resources; accessibility and transport issues; economic and cultural vitality and viability; and design.

*- Allocations of land*

2.16 By identifying sites for development and areas of restraint, an authority demonstrates how the vision and strategy in the plan will be implemented in practical terms. The identification of sites for specific uses (including mixed uses) should be founded on a robust and credible assessment of the suitability and availability of land for particular uses or a mix of uses and the probability that it will be developed.

2.17 Policies relating to the delivery of the site specific allocations, such as critical access requirements, phasing, broad design principles or substantive planning obligations which may be sought, should, where possible, be set out in the plan. Further detail may be included in supplementary planning guidance in the form, for example, of development /design briefs or master plans (see section 5).

*- Key areas of change or protection*

2.18 LDPs should contain more detailed policies for areas where significant change in the use or development of land is proposed or where protection is essential. They should:

- i. deliver planned growth areas and/or areas of regeneration;
- ii. protect and encourage enhancement for areas sensitive to change;
- iii. resolve conflicting objectives in areas subject to development pressures; and
- iv. identify any new infrastructure required to bring them forward.

2.19 Authorities may set criteria in their strategy for identifying locations that may be needed in the longer term and priorities for bringing forward such areas into the plan through plan review and alterations.

2.20 In key areas of change, plans should identify broad development principles including:  
i. the type, general scale and phasing of uses and their inter-relationships;  
ii. integral specific site allocations; and  
iii. the infrastructure required to support the development.

Further detail, such as the layout of uses within these allocations and detailed design requirements, should be covered in supplementary planning guidance (SPG).

2.21 In key areas of protection, plans should set out the positive policies and proposals for action to protect or enhance the area, including defining areas where specific conservation measures are proposed and areas which will be subject to specific controls over development.

*- Reasoned justification*

2.22 Authorities should ensure that the reasoned justification (Regulation 11(2)) in support of the policies and proposals is succinct and kept to the minimum necessary to provide context to the policy. The policies and proposals must be readily distinguished from the reasoned justification (Regulation 11(3)).

2.23 Within the LDP, authorities should identify how all proposals will be implemented and the indicators and targets which will be used for assessment of progress in the annual monitoring report (AMR).

*- Proposals map*

2.24 The 'proposals map' (LDP Regulation 12) must illustrate each of the policies and proposals with a spatial component in the plan, including, defining sites for particular developments or land uses and the areas to which specified development control policies will be applied. Boundaries of locally or nationally designated areas such as heritage coasts, Conservation Areas, Sites of Special Scientific Interest and Areas of Outstanding Natural Beauty should be shown to illustrate that a range of particular policies apply there. The map must be on an Ordnance Survey base, with the plan title, scale and an explanation of the notations given. Map users will be assisted by cross-references from the map's key to the

policies and proposals in the plan and, where possible, the use of common notations for land use policies in neighbouring authorities.

2.25 The proposals map may comprise one or more sheets and may be accompanied by insets on a larger scale where it is necessary to show certain proposals more clearly. Each inset map must illustrate all the proposals for the area covered by the inset. The boundaries of each inset must be shown precisely on the proposals map and the proposals shown on an inset must not appear on the main map. **In the event of a contradiction between the main body of the LDP and the proposals map, the provisions of the former prevail.**

2.26 The LDP may include other **illustrative material** such as maps and diagrams as the authority thinks appropriate. They should only be used to clarify factual information such as the distribution of certain types of existing development or open spaces. All allocated sites in the LDP must be shown on the proposals map or related inset maps.



### **3. SUSTAINABILITY APPRAISAL AND STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)**

3.1 Section 39 of the 2004 Act requires authorities to prepare LDPs with the objective of contributing to the achievement of sustainable development. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, both now and for future generations. The Assembly Government's *Sustainable Development Scheme (2000, revised 2004)* defines it as "development which meets the needs of the present without compromising the ability of future generations to meet their own needs".

3.2 Section 62(6) of the 2004 Act requires an authority to carry out an appraisal of the sustainability of the LDP and to prepare a report of the findings as an integral part of the process of plan preparation. Sustainability appraisal may be defined as: "a systematic and iterative process undertaken during the preparation (and review) of a plan which identifies and reports on the extent to which implementation of the plan will achieve the environmental, social and economic objectives by which sustainable development can be defined and identifies opportunities for improving plan performance in relation to these."<sup>17</sup>

3.3 Authorities must also comply with the European Union Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, (commonly known as the SEA Directive). The SEA Directive requires formal environmental assessment during production of certain plans and programmes which are likely to have significant effects on the environment. The Directive applies to all LDPs. It also applies to UDPs continuing under transitional arrangements whose preparation began before 21 July 2004, and which are not adopted by 21 July 2006. The environmental effects of a plan, including alternatives proposed, need to be considered as early in the plan preparation process as possible. The Directive has been incorporated into Welsh law by virtue of the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 (the SEA Regulations). **Authorities must comply with these SEA Regulations as well as the LDP Regulations under Part 6 of the 2004 Act when preparing LDPs.**

3.4 The purpose of sustainability appraisal is to appraise the economic, environmental and social effects of the strategy and policies in an LDP from the outset of the process. This will ensure that decisions are made that accord with sustainable development. In *Local Development Plans Wales*, **all references to sustainability appraisal must be taken to include the requirements of the SEA Regulations.** Guidance will be published in the *LDP Manual* on sustainability appraisal, which will incorporate the requirements of SEA.

3.5 To be effective, sustainability appraisal should be fully integrated into the plan making process and should provide input at each stage when decisions are taken. It should also be used in developing arrangements for monitoring the implementation of the plan, which should lead to the identification of the need to revise or replace an LDP. In carrying out the appraisal, each authority should have regard to the specific objectives and principles of *Planning Policy Wales*.

3.6 Authorities must demonstrate how they are meeting the requirements of sustainability appraisal including providing the relevant technical information in line with the stages of preparation of the LDP. The whole process should be iterative so that the authority finishes the process with a clear set of objectives which informs each part of the LDP. It should be clear from the process how and why policy and proposal options have been chosen. Alternative policies, proposals and locations for development should be evaluated wherever appropriate.

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<sup>17</sup> *Sustainability Appraisal of Unitary Development Plans: A Good Practice Guide*, (Welsh Assembly Government, 2002). (The *LDP Manual* will provide guidance on sustainability appraisal for LDPs.)

3.7 Sustainability appraisal will play an important part in demonstrating that the LDP is sound by ensuring that it reflects sustainable development objectives and will contribute to the reasoned justification of policies.

3.8 Authorities undertaking preparatory work in developing an LDP information and evidence base must also produce a sustainability appraisal **scoping report**. A scoping study with the environmental consultation bodies (under the SEA Regulations)<sup>18</sup> and stakeholders (i.e. other local partners) should identify the main issues to be addressed and level of detail required.

3.9 Throughout the pre-deposit participation stage (LDP Regulation 14), authorities must undertake sustainability appraisal of the strategic options and work with the environmental consultation bodies (under the SEA Regulations) and stakeholders on an **initial sustainability appraisal report**. This will inform the decision making process and identification and development of the preferred strategy.

3.10 At pre-deposit public consultation stage (LDP Regulation 15), authorities must consult on the initial sustainability appraisal report alongside the preferred strategy document.

3.11 Responses to the pre-deposit public consultation should be used to inform the development of the deposit plan and revisions to the sustainability appraisal report. At deposit and submission stages, it should be clear what elements of the appraisal have informed the policies and proposals in the plan.

3.12 The fact that a plan is prepared subject to a sustainability appraisal does not take away the need for **environmental impact assessment** of individual development proposals where they are required by legislation. Even where an appraisal of a plan has been undertaken and a subsequent development is proposed which is in accordance with the plan, an environmental impact assessment must still be carried out if required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

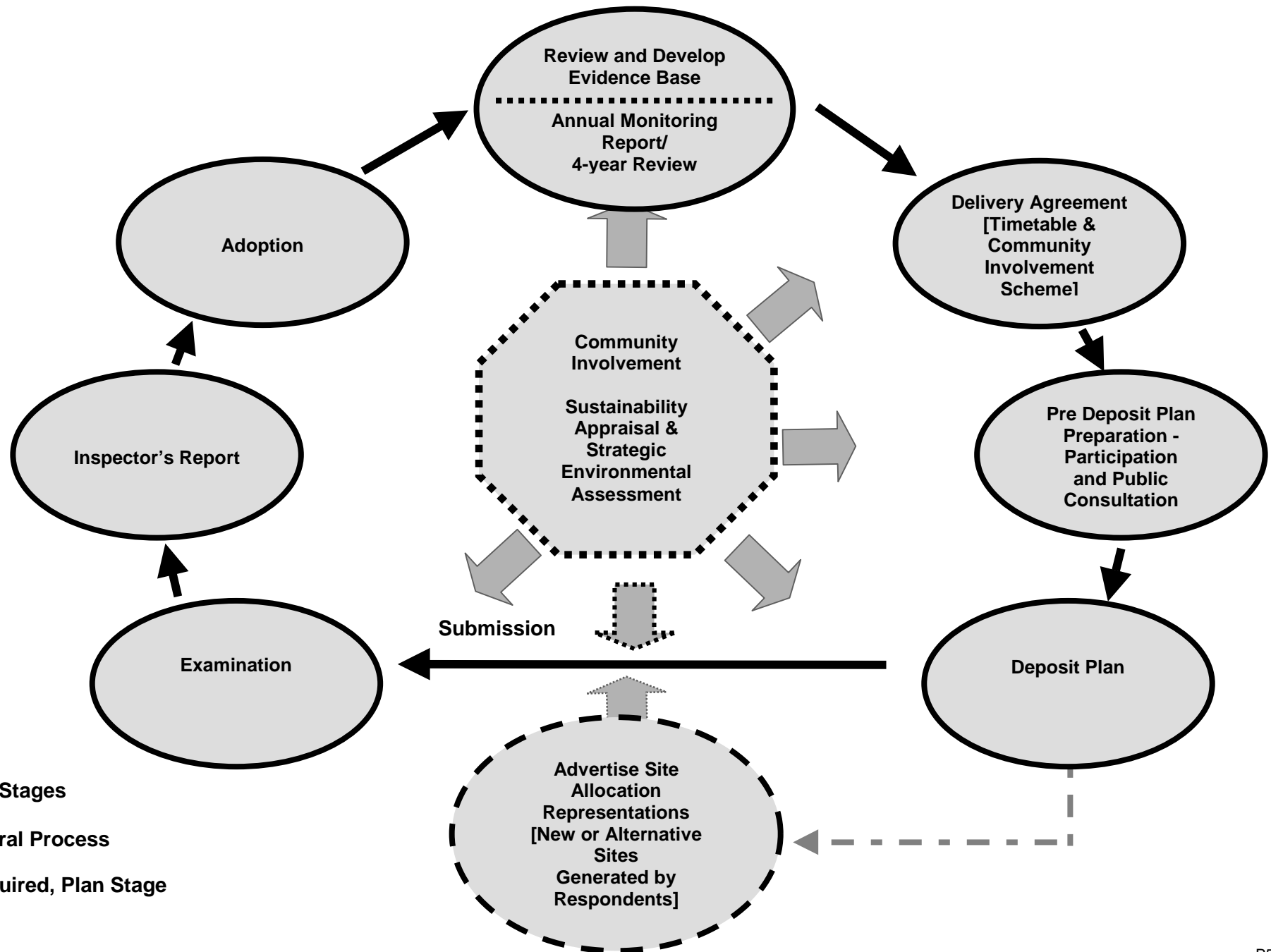
3.13 **Figure 1** below outlines the process for preparing LDPs and illustrates the place of sustainability appraisal in plan preparation.




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<sup>18</sup> Environmental consultation bodies under the SEA Regulations are Countryside Council for Wales, Environment Agency and Cadw (see Annex E).

# Figure 1: Local Development Plan Preparation Process Diagram

*Local Development Plans Wales, (Welsh Assembly Government, 2005)*



-  Plan Stages
-  Integral Process
-  If required, Plan Stage



## **4. THE PROCESS OF PLAN PREPARATION**

### **Introduction**

4.1 The LDP has a development plan process that is designed to:

- i. expedite the adoption and review of development plans;
- ii. adopt the principles of continuous community involvement; and
- iii. incorporate best practice regarding sustainable development and the requirements of the SEA Regulations.

### **The LDP Preparation Process**

4.2 The LDP preparation process can be divided into 7 cyclical stages as detailed in **Figure 1**.

- *Review and development of evidence base including monitoring the current development plan (section 61 of the 2004 Act) (cyclical – see last bullet)*
- *Delivery Agreement (LDP Regulations 5 to 10)*
  - preparation of timetable and community involvement scheme (CIS)
- *Pre Deposit Plan Preparation (LDP Regulations 14 to 16)*
  - early stakeholder engagement in gathering evidence and developing alternatives ;
  - framework for sustainability appraisal report;
  - community engagement on evidence, issues, alternatives, preferred strategy;
  - consideration of all consultation responses and of sustainability appraisal;
  - discussion and negotiation;
  - preparation of LDP for deposit.
- *Deposit (LDP Regulations 17 to 21)*
  - consultation on the deposit LDP; followed by
  - (if required) advertisement of site allocation representations which propose a new site, a site alteration or site deletion, as generated by respondents to the deposit LDP;
  - consideration of responses.
- *Submission and Examination (LDP Regulations 22 to 23)*
  - submission of the deposit LDP, sustainability appraisal report, CIS, consultation statement and representations
  - independent examination by an Inspector into the soundness of the LDP
- *Inspector's Report identifying required changes to the deposit LDP (LDP Regulation 24; section 64(7) of the 2004 Act)*
- *Adoption (LDP Regulation 25)*
  - adoption and publication of LDP
- *Review (LDP Regulation 41) (cyclical – see first bullet)*

- annual monitoring report (AMR) and 4 yearly full review; possibly leading to need for plan alterations or replacement, and back to the first step above.

### **Review and Development of Evidence Base**

4.3 Under section 61 of the 2004 Act, an authority is required to keep all matters under review that are expected to affect the development of its area. An authority's policies and proposals should be founded on a thorough understanding of the area's needs, opportunities and constraints. This requires authorities to prepare, maintain or have access to an up-to-date information base on sufficient aspects of the economic, environmental and social characteristics of their area to enable the preparation of a 'sound' development plan. This information will be vital as baseline information for the sustainability appraisal and for monitoring and provides evidence of the plan's soundness. In preparing LDPs, authorities should ensure that delivery of housing and other strategic and regional requirements (e.g. Housing Land Availability studies) are based on stakeholder information about the future availability of infrastructure, transportation and resources. The 2004 Act empowers an authority to survey its area, and to keep under review:

- i. the principal physical, economic, social and environmental characteristics;
- ii. the principal purposes for which land is used;
- iii. the size, composition and distribution of the population;
- iv. the communications, transport system and traffic; and
- v. any other considerations which may be expected to affect those matters.

4.4 Authorities also should take account of the effects of similar issues in neighbouring areas in consultation with the authorities concerned. They should be selective and concentrate on material needed for plan preparation and monitoring. The results of surveys and research should be made available for public inspection on request.

### **The Delivery Agreement - Management of the Process**

4.5 Section 63 of the 2004 Act requires that an LDP be prepared in accordance with the community involvement scheme (CIS) and the timetable for plan preparation and adoption. Before substantive work commences on the LDP the authority must prepare and agree with the Assembly Government the 'Delivery Agreement' which comprises the timetable and CIS (LDP Regulation 9). The Delivery Agreement is a public document of the authority incorporating its project plan and its policy for involving the community in plan preparation.

4.6 The key principles that underpin community engagement in the LDP process<sup>19</sup> are:

- i. creating the conditions for early involvement and feedback at a stage when people can recognise a chance to influence the plan;
- ii. encouraging the commitment of all participants to an open and honest debate on realistic development alternatives in the search for a consensus; and
- iii. recognising the need to adopt approaches for engaging the community, including business, which seeks the views of those not normally involved.

4.7 An authority must approve the Delivery Agreement through a formal resolution of the council prior to submitting it to the Assembly Government's Planning Division. Following agreement, the Delivery Agreement must be publicised by the authority and made available

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<sup>19</sup> These principles were included in the Statement on *Planning: Delivering for Wales* by the Minister for Environment, Planning and Countryside in November 2004.

for public inspection at the authority's principal offices and on the website (LDP Regulation 10). The authority must keep the Delivery Agreement under regular review (LDP Regulation 9(5)); where revisions are necessary the same procedures as for preparation are required. Authorities should endeavour to meet timetable targets. Only exceptionally (where factors beyond an authority's control prevent the initial targets being attained) should a revised timetable be considered. It should only be necessary to formally revise the CIS when significant contextual changes have occurred.

*- Timetable for the Preparation and Adoption of Plans (LDP Regulations 7 & 8)*

4.8 The Assembly Government considers LDP progress fundamental to the effective operation of the planning system. It is vital that authorities give early consideration and adequate priority to plan preparation and handling of the process through effective leadership and project management. This will include:

- i. considering how long a plan will take to reach adoption and the staffing resources and budgets that are needed at various stages in the process;
- ii. agreeing a timetable at the start of the plan preparation process leading to the adoption of the plan;
- iii. using principles of good project management to enable monitoring and review of progress towards adoption against agreed milestones; and
- iv. implementing a programme of monitoring and plan review thereafter.

4.9 A standard prescribed timetable, applicable to all plans across Wales, is not appropriate as there will be substantial variations both in the nature of planning issues being addressed by authorities and the context in which they are prepared. However, the process should be capable of completion in **4 years** which will ensure that consultees stay engaged and that fewer contextual changes throw the plan off-course. This may be adjusted to fit with programmed community strategy reviews. The timetable for alterations to the LDP will depend upon the extent of those alterations, but should be dealt with expeditiously. The Planning Inspectorate should be consulted early about the organisational arrangements and timing of the examination, and the authority should discuss with it a service agreement covering the examination<sup>20 21</sup>.

4.10 In the preparation of the plan timetable authorities must consult with the following (LDP Regulation 7):

- i. the Assembly Government
- ii. the council of any community covered by the proposals;
- iii. any adjacent local planning authority (Welsh or English), and in National Parks the relevant council or county borough council for the area;
- iv. the Environment Agency;
- v. the Countryside Council for Wales; and
- vi. the Secretary of State (in relation to the functions previously exercisable by the Strategic Rail Authority).

4.11 The submitted timetable must include all key dates including a definitive date for each stage of the LDP procedure up to deposit stage, followed by indicative dates up to adoption

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<sup>20</sup> Requests for an Examination Inspector: Appointments of Inspectors are made via the liaison point for Wales at: The Planning Inspectorate Wales (Room 1-107), Crown Buildings, Cathays Park, Cardiff CF10 3NQ (Tel 029 2082 3892 / 1581). Initial requests for appointment, other queries on examination organisation, Advisory Visits and Service Agreements should be directed to the same address.

<sup>21</sup> *Guide to the Examination of Local Development Plans*, (Planning Inspectorate, available early 2006)

of the LDP (LDP Regulation 8(a)). The timetable must also include key dates for the preparation and publication of the sustainability appraisal report and the AMR (LDP Regulation 8(b)). The authority should define the indicative timetable within 3 months of the close of the formal 6-week deposit period.

*- The Community Involvement Scheme (CIS) (LDP Regulations 5 & 6)*

4.12 In the preparation of the CIS authorities must engage those 'general consultation bodies' (see Annex A) as appear to them as having an interest in matters relating to the development of the authority's area (i.e. voluntary bodies, bodies representing interests of racial, ethnic, national, and religious groups, and disabled persons, business and Welsh culture in the area – LDP Regulation 5).

4.13 The CIS must set out how the LDP will be developed and then monitored and reviewed in an end to end process in partnership with stakeholders and the community. It should be built on existing networks and structures and avoid unnecessary duplication with other consultation processes. It is essential that the CIS provides for involvement of the community at an early stage in the preparation of the LDP and is a clear public document setting out:

- i. the authority's principles, strategy and process for involving the whole community, including businesses, in the preparation, review and alteration of its LDP;
- ii. how the authority will involve the community in all stages of LDP preparation, including the sustainability appraisal, monitoring, review and alteration, and related supplementary planning guidance (SPG);
- iii. an outline of how contributions will feed into decisions regarding the preparation of, and any alterations to, the LDP or related documents;
- iv. the organisations that will be formally consulted and people or groups who should be involved, with an outline of the techniques required to do so effectively;
- v. the resources committed to the process; and
- vi. relevant links with other community involvement initiatives, particularly the community strategy/ies.

4.14 The LDP Regulations set out the basic requirements for community involvement, and those bodies that authorities must consult during plan preparation. Annex A sets out the statutory consultees<sup>22</sup> and a wider list of bodies which authorities should consider consulting. The bodies and organisations listed in the CIS should be directly relevant to the authority's area.

4.15 Early community engagement in the LDP process is essential to achieve local ownership and legitimacy for the policies that will shape the future distribution of uses and development in an authority's area. Effective work with the general public, community groups, conservation and amenity groups, local businesses and business organisations, and development and infrastructure interests should help an authority secure a degree of consensus over the future development and use of land in its area at an early stage in plan preparation. It should reduce the time taken for plans to reach adoption by reducing the number of deposit objections to policies, thereby reducing the time spent in the later stages of the plan preparation process, including minimising the need for a lengthy and controversial examination process.

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<sup>22</sup> *Annex A: Consultees for LDPs*, includes the 'specific consultation bodies' and 'general consultation bodies' which are specified in the LDP Regulations.



4.16 The CIS should set out the methods the authority will use to enable people to contribute to the process of preparing LDPs. A variety of methods are likely to be required by the authority to enable this process to be as productive as possible. The techniques should be fit for purpose for the different stages of preparation of LDPs and for different groups. Many authorities already have sophisticated systems for involving people in its work, which they can build on in preparing their CIS. Authorities should seek to integrate consultation exercises and co-ordinate their activities as much as possible with other consultation programmes or initiatives, in particular, those relating to the development of the community strategy/ies.

4.17 Authorities must comply with the CIS when preparing LDPs, as well as with the procedures set in the LDP Regulations. The first test of soundness that Inspectors will apply in examining LDPs is whether the plan has been prepared in accordance with the Delivery Agreement, including the CIS. The submitted consultation report (see paragraph 4.33) will be considered against the CIS. If the authority has failed to comply with the CIS without explanation, the Assembly Government or the Inspectorate may require the authority to take any necessary action to remedy this situation, which may delay the examination.

4.18 Authorities in preparing LDPs must comply with the general duty in the Race Relations (Amendment) Act 2000 to promote race equality. This duty means that authorities should have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between persons of different racial groups. Community involvement in planning will need to address the involvement of different racial groups. Authorities must also comply with the Disability Discrimination Act 1995, which places a duty on all those responsible for providing a service to the public not to discriminate against disabled people by providing a lower standard of service. Service providers now have to consider making reasonable adjustments to the way they deliver their services so that disabled people can use them.

### **Pre-Deposit Plan Preparation**

*- Participation and Public Consultation on Strategic Options and Preferred Strategy (LDP Regulations 14 & 15)*

4.19 Participation and public consultation at the pre-deposit stage is essential for effective community and stakeholder engagement with the plan. Early discussion on the evidence base, strategic options, preferred strategy and related proposals will be critical for building consensus. Compliance with the participation and public consultation requirements of LDP Regulations 14 and 15 must also meet the requirements of the SEA Regulations that reasonable alternatives to the plan are identified and evaluated (- this is one of the examination soundness tests – see paragraph 4.35). The authority's pre-deposit proposals documents should include the **vision, strategic options, preferred strategy, key policies** and the **initial sustainability appraisal report**, and must be publicised over a six week period (with an allowance for public holidays). This documentation should include key background information (e.g. on housing need) which should be produced with stakeholder involvement, in order to help facilitate the production of a sound plan. Authorities should not be aiming to produce a full draft of a plan. Discussion of strategic issues and options should be linked to locational issues and optional sites for development and should lead to identification of the preferred overall strategy and its spatial implications.

4.20 The views of the following must be taken into account before determining the content of the deposit plan:

- i. the Assembly Government<sup>23</sup>;
- ii. the council of any community covered by the proposals;
- iii. any adjacent local planning authority (Welsh or English);
- iv. the Environment Agency;
- v. the Countryside Council for Wales;
- vi. those 'general consultation bodies' as the authority considers appropriate (i.e. voluntary bodies, bodies representing interests of racial, ethnic, national and religious groups, and disabled persons, business and Welsh culture in the area); and
- vii. the Secretary of State (in relation to the functions previously exercisable by the Strategic Rail Authority).

4.21 An open process of public consultation is envisaged, with clear information on the process and opportunities for the community and interested parties to make representations. Publicity for proposals and mechanisms in the CIS should be sufficient to encourage all sectors of the community to be involved. All participants in the preparation process should ensure that they have made their views known and identified proposed sites early in the process.

*- Discussion and Negotiation (LDP Regulation 16)*

4.22 Authorities must consider all representations made in accordance with LDP Regulation 16(2) at the pre-deposit public consultation stage before finally determining the content of the deposit LDP. Representations made at this pre-deposit stage will not constitute representations to be considered at the independent examination. Authorities should discuss with stakeholders any issues that arise which question the preferred strategy of the plan or particular key locations for development.

4.23 In preparation for the deposit stage, the authority should begin drafting its **initial consultation report**, identifying the bodies engaged or consulted, and the main issues raised and how they have influenced the deposit LDP, and the steps taken to publicise plan preparation. Any deviation from the CIS should be exceptional and fully justified. This initial consultation report will contribute to the consultation report required when the LDP is submitted for independent examination.

**Deposit (LDP Regulations 17 to 21)**

4.24 When an authority is ready to place the LDP on deposit for public inspection it must advertise this, and notify those identified in the CIS (including statutory consultees), allowing six weeks (with an allowance for public holidays) for the making of representations (LDP Regulation 17). The authority should send the Assembly Government copies of the deposit plan (20 copies) and copies of any other documents referred to in the advertisement, including the authority's sustainability appraisal report (6 copies), the CIS if amended (3 copies) and its initial consultation report covering the pre-deposit plan preparation stage (3 copies). Where practicable, one electronic copy of the documents should also be provided.

4.25 Everyone making representations (LDP Regulation 18) should be encouraged to use a standard form setting out clearly any supporting representation or objection (i.e. a

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<sup>23</sup> At the pre-deposit public consultation stage (Regulation 15), an authority should send 20 copies of the key document(s) to the Assembly Government; a minimum of 2 copies of other supporting documentation will also be required. Where practicable, one electronic copy of the documents should also be provided.

representation seeking to change an LDP – section 64(6) of the 2004 Act). Objectors should indicate what test(s) of soundness they consider the plan fails (see paragraph 4.35) and the change to the plan sought. This will inform the Inspector's consideration of soundness including implications for the sustainability appraisal. [A model form is included in the *LDP Manual* and in the Planning Inspectorate's '*Guide to the Examination of Local Development Plans*']. An authority does have discretion to accept late representations but this would only be considered in exceptional circumstances which could be clarified in the authority's CIS. An authority should also inform those who have a statutory right to appear before and be heard by the examination Inspector (i.e. objectors, those who seek a change to the plan) that they may pursue their objections by using the written representation procedure if they do not wish to appear at the examination. **Objections pursued in this way carry as much weight with Inspectors as those made orally at examination.**

4.26 **Site allocation representations** are those which seek to change a deposit LDP by adding a new site, or by altering or deleting a proposed site<sup>24</sup> (LDP Regulation 20 & 21). Any such representation received must be advertised by the authority as soon as reasonably practicable after the end of the 6-week deposit period, allowing a further 6-week period for the making of representations on them. This should ensure that all information is considered prior to the examination and is subject to the same procedures as for the deposited LDP. Where any statutory processes have not been undertaken for sites submitted late in the preparation process, the Inspector's report would not be able to recommend their inclusion in the LDP. Furthermore, if such a change would make the LDP unsound, the Inspector would not be able to recommend in its favour. It is therefore the responsibility of those promoting such changes to show that the proper procedures have been undertaken and to provide the necessary evidence to demonstrate that the plan would be sound if the site were to be included. This would include the site's compatibility with the sustainability appraisal.

4.27 Good practice would suggest that authorities should agree with substantive objectors a "**statement of common ground**", which may include a compromise position in advance of the submission for the examination. The authority should prepare a summary of the main issues raised by the representations received at the deposit stage, and any site allocation representations, and outline how it considers the issues should be addressed in the LDP. This would become part of the consultation report required when the LDP is submitted for independent examination.

4.28 The best interests of the planning system will be served by ensuring that plans are as up-to-date as they can be at deposit stage. However, **new information** may become available after deposit in the later stages of plan preparation, which has a direct bearing on the plan's content. Such information may include that which derives from new national policies. Authorities should indicate where such information has a potential impact on their deposit plan and suggest how it might be accommodated. The Inspector will include any necessary changes to the LDP in the Inspector's report, assuming the tests of soundness can be met.

4.29 Authorities should not propose formal changes to the deposited LDP prior to examination. Such changes are not likely to be required if the process of continuous community involvement has been effective and all realistic alternatives were properly considered during the preparation stage. Where, exceptionally, **late changes** are deemed necessary (including, for example, as a result of major economic activity such as a major employer closure or where the authority has determined that deposit representations require a fundamental change), the authority must explain why the change is being put forward and the evidence on which it is based. The changes should be subject to the same process of publicity and opportunity to make representations as the deposited LDP. An authority must

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<sup>24</sup> Commonly referred to as 'alternative sites'.

consider carefully the impact at this stage of any changes on the soundness of the plan taking account of its overall consistency and its strategy as well as of the sustainability appraisal.

4.30 The authority must therefore indicate what the implications of any proposed pre-examination changes are in terms of the soundness of the plan, having regard to the following:

- i. how the proposed change relates to the plan's strategy;
- ii. how the proposed change relates to the community strategy/ies for the area;
- iii. whether it has regard to national policy, including the Wales Spatial Plan and to the Regional Spatial Strategy for any adjoining area of England;
- iv. whether it has regard to other relevant plans and strategies which will affect the delivery of the policies in the plan, e.g. Local Transport Plans;
- v. whether it has any economic, environmental or social implications that have not already been covered in the sustainability appraisal;
- vi. whether the proposed change requires the preparation of a revised sustainability appraisal; if so, whether this has been done or, if not, how it is to be done; and
- vii. what further consultation has been undertaken by the authority.

4.31 Any proposed changes suggested by the authority at this stage do not constitute formal changes to the plan. If any of the changes are upheld at examination, they will be identified as changes in the Inspector's report.

## **Submission and Independent Examination**

### *- Submission (LDP Regulation 22)*

4.32 An authority should ensure that its LDP is sound when submitted to the Planning Inspectorate for examination. The criteria for assessing soundness are detailed in the paragraphs below, and outlined in detail in the *LDP Manual* and in the Planning Inspectorate's '*Guide to the Examination of Local Development Plans*'.

4.33 When the LDP is submitted for independent examination, the authority must publicise and advertise the submission and both publish and make available the relevant documentation. It must send simultaneously to the Planning Inspectorate and the Assembly Government paper copies<sup>25</sup> and, where practicable, one electronic copy of the following documents:

- i. the deposit LDP;
- ii. the final report of the sustainability appraisal;
- iii. any supporting evidence-base material and technical documents such as the housing needs survey;
- iv. a copy of the CIS;
- v. a consultation report including:
  - a. a summary of how it has involved the community and stakeholders in the preparation of the plan and sustainability appraisal (including the SEA),
  - b. any deviation from the CIS with explanation,

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<sup>25</sup> The Assembly Government requires 3 copies of every document referred to in the list except copies of individual representations which should not be sent. The Planning Inspectorate requires one copy of every document (including individual representations) referred to in the list.

- c. a summary of the main issues raised with how these have been addressed in the plan,
- d. the total number of representations received, and
- e. the authority's recommended changes in response to relevant representations or new information that in the authority's view would amend the deposit plan without jeopardising its soundness;
- vi. copy of all representations made to the deposit plan, including information on any representation raised as a result of advertising submitted site proposals (or that no such representations have been made), and
- vii. a statement of suggested main issues for consideration at examination and a suggested procedure for dealing with them.

- *Independent Examination*<sup>26</sup> (LDP Regulation 23)

4.34 Independent examination is required both where an LDP is being prepared for the first time and when any revision is being proposed, irrespective of whether or not representations have been received. The examination will determine whether the LDP satisfies the preparation requirements of the 2004 Act and whether it is 'sound' (section 64(5) of the 2004 Act); it will also consider representations including objections which have been made in accordance with the LDP Regulations<sup>27</sup> (LDP Regulation 23(3)). Part of this examination process will be held in public before an Inspector appointed by the Assembly Government. This part of the examination must be publicised and advertised by the authority at least 6 weeks before the scheduled opening of the examination. The Inspector will determine the format of the examination and will hold a pre-examination meeting. The Inspector will also determine what issues need to be discussed to test the soundness of the plan and who should be invited to particular sessions of the examination (although all objectors will have a right to appear and be heard).

4.35 The presumption will be that the LDP is sound unless it is shown to be otherwise as a result of evidence considered throughout the examination. There are **10 criteria for assessing soundness** which fall into three categories (procedural, consistency, coherence & effectiveness)<sup>28</sup>. They are:

*Procedural Tests*

- P1: it has been prepared in accordance with the Delivery Agreement including the CIS
- P2: the plan and its policies have been subjected to sustainability appraisal including strategic environmental assessment

*Consistency Tests*

- C1: it is a land use plan which has regard to other relevant plans, policies and strategies relating to the area or to adjoining areas
- C2: it has regard to national policy
- C3: it has regard to the *Wales Spatial Plan*
- C4: it has regard to the relevant community strategy/ies

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<sup>26</sup> In many cases there will be two or more inspectors appointed to ensure smooth delivery of the report and to ensure effective use of time.

<sup>27</sup> The *LDP Manual* provides information on types of procedures for examination. *Guide to the Examination of Local Development Plans*, (Planning Inspectorate, available early 2006) provides advice to authorities on practical matters relating to the preparation and conduct of examinations.

<sup>28</sup> Further information on the tests of soundness is contained in the *LDP Manual*, and in the Planning Inspectorate's '*Guide to the Examination of Local Development Plans*' (available early 2006)

### *Coherence & Effectiveness Tests*

- CE1: the plan sets out a coherent strategy from which its policies and allocations logically flow and, where cross boundary issues are relevant, it is compatible with the development plans prepared by neighbouring authorities
- CE2: the strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base
- CE3: there are clear mechanisms for implementation and monitoring
- CE4: it is reasonably flexible to enable it to deal with changing circumstances

### **Inspector's Report**

4.36 After the examination the Inspector will produce a report specifying precise recommendations identifying required changes to the LDP (including to the proposals map) together with reasons for the changes (section 64(7) of the 2004 Act). An Inspector who considers that a plan is fundamentally unsound will not recommend that it be adopted. The report will not summarise any cases submitted to the examination but will focus on the issue of whether the LDP is sound, which the Inspector's conclusions will address. The conclusions reached by the Inspector will be binding and the authority must accept the changes required by the Inspector and adopt the LDP as amended.

4.37 The Inspector may recommend that the authority should give certain matters further consideration and these should be brought forward as a subsequent revision to the LDP.

4.38 The authority has an opportunity before the Inspector's report is finalised to request the correction of factual errors. The authority may not question the Inspector's conclusions, although it may seek clarification on any conclusion considered to be unclear. Authorities should complete the fact check within two weeks of receiving the Inspector's report. Once the fact check has been completed and the Inspector has responded to any points raised, the final report will be submitted to the authority and to the Assembly Government's Planning Division in electronic and paper format. The timetable for the Inspector's report will be agreed between the authority and the Planning Inspectorate as part of a service level agreement.

### **Adoption**

4.39 An authority must publicise and make available the Inspector's report by the day of adoption of the LDP; it must also inform those who requested to be notified of its publication (LDP Regulation 24). Unless the Assembly Government intervenes, the authority must adopt the LDP, by resolution of the Council, within 8 weeks of receipt of the Inspector's report; it must prepare an adoption statement, advertise the fact that the LDP has been adopted and where it can be inspected (LDP Regulation 25). Copies of the adopted LDP, the adoption statement, the Inspector's report and the final sustainability appraisal report must be made available for inspection at the locations where the plan was deposited and on the authority's website; copies of the adoption statement must be sent to those who have asked to be notified of the adoption (LDP Regulation 25 & 39). These documents should also be available for purchase at a reasonable fee as soon as practicable. Final publication of the LDP should follow as soon as possible. The authority must send four copies of the adopted LDP and the adoption statement to the Assembly Government.

### **Operative Date**

4.40 An LDP becomes operative on the date it is adopted or, if the plan has been called in, the date it is approved by the Assembly Government.

## **Plan Withdrawal**

4.41 Under section 66 of the 2004 Act, an authority may withdraw an LDP at any time before it is submitted to the Assembly Government and Planning Inspectorate for independent examination. Once the plan is submitted, it can only be withdrawn if either the Inspector carrying out the examination recommends that it is withdrawn (and the Assembly Government doesn't overrule that recommendation) or, the Assembly Government directs that the plan must be withdrawn. As soon as reasonably practicable after an LDP is withdrawn the authority must advertise the fact and remove all documents made available for inspection (LDP Regulation 26).

## **Monitoring and Review, and Alteration and Replacement**

- *The Annual Monitoring Report (AMR) (LDP Regulation 37)*

4.42 An authority is required under section 76 of the 2004 Act to make an annual monitoring report (AMR) on its LDP to the Assembly Government following adoption of the LDP. The report must be based upon the period 1<sup>st</sup> April to 31<sup>st</sup> March and submitted to the Assembly Government by 31 October each year (LDP Regulation 37(1)) (see also paragraph 7.12). Authorities should consider involving stakeholders in AMR preparation. AMRs must be published by authorities.

4.43 LDP Regulation 37 requires the AMR to identify any policy that is not being implemented and to give the reasons, together with any steps the authority intends to take to secure the implementation of the policy and any intention to revise the LDP to replace or amend the policy. The AMR should include an assessment of:

- i. whether the basic strategy remains sound (if not, a full plan review may be needed);
- ii. what impact the policies are having globally, nationally, regionally and locally;
- iii. whether the policies need changing to reflect changes in national policy;
- iv. whether policies and related targets in LDPs have been met or progress is being made towards meeting them, including publication of relevant supplementary planning guidance (SPG);
- v. where progress has not been made, the reasons for this and what knock on effects it may have;
- vi. what aspects, if any, of the LDP need adjusting or replacing because they are not working as intended or are not achieving the objectives of the strategy and/or sustainable development objectives; and
- vii. if policies or proposals need changing, what suggested actions are required to achieve this.

The AMR must also specify the housing land supply (from the current Housing Land Availability Study) and the number of net additional affordable and general market dwellings built in the authority's area, and report on other LDP indicators<sup>29</sup>.

4.44 Reporting in the AMR on the extent to which policies in the LDP are being achieved should be set in the context of the overall plan strategy. Authorities should seek to integrate their approach to monitoring and survey with other work, particularly community strategies. Where LDP objectives complement those in other strategies, monitoring should highlight common targets and indicators.

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<sup>29</sup> See *the LDP Manual*.

*- Plan Review (LDP Regulation 41)*

4.45 The timing and frequency of full plan review will depend upon the findings of the AMR and on local circumstances. When monitoring points to the need for a full review, the Assembly Government should be informed if it is not evident in the submitted AMR. An authority should commence a full review of its LDP at least once every 4 years, and this should ideally be integrated with a review of the community strategy/ies. The review should include reconsideration of the sustainability appraisal and the soundness of the plan. Annual monitoring and regular review will mean that plans remain up-to-date and support the objectives of the plan-led system of providing certainty; rational and consistent decisions; and a reduction in the number of misconceived planning applications and appeals.

*- Alteration and Replacement of Plans*

4.46 Replacement of a plan (i.e. a complete new plan) will be justified where a review or annual monitoring report has indicated that the existing plan is substantially out-of-date and the scale of alterations therefore needed is fundamental.

4.47 An AMR or full review could also indicate that alterations to a plan are needed. This could be for a partial rolling forward of the plan, where some forecasts and assumptions have changed, where some policy needs to be changed or where some additional policies are needed to deal with new 'key areas of change or protection' or with some unforeseen events. The process to be followed for plan revision is the same as for plan preparation (LDP Regulation 3(1)) and is outlined in Figure 1.

4.48 An authority's original CIS within its Delivery Agreement should set out its requirements in relation to community involvement when proposing to prepare alterations to the LDP; but it may need to be reviewed. An authority may find it helpful to discuss the scope of any alterations with the Assembly Government's Planning Division at the time of submitting the Delivery Agreement prior to any consultation or deposit of the proposals.

4.49 Where alterations to the LDP are proposed and put forward for public inspection, the consultation documents should indicate clearly the changes from the existing policies and proposals. When deciding to make alterations to a plan, an authority should consider the degree of inter-relationship between policies and the potential effects of changing one policy on other policies in the plan. The requirements in terms of sustainability appraisal should also be considered. Selective alterations which do not consider the implications of connections between different policy areas in the plan may have damaging consequences for the coherence and effectiveness of the plan as a whole and could affect the soundness of the overall plan.

4.50 Any representations made to the proposed alterations should focus on the proposed changes, including any implications of the alterations for other parts of the plan that are not being altered. When depositing alterations to the plan, an authority should identify those policies in the plan which are not being altered, but which it considers to be linked in a direct way to those that are being altered; it should also present the sustainability appraisal implications of these alterations. This will assist people to identify the scope of possible representations to the alterations proposed. Authorities are not required to respond to representations that do not relate to the revision unless they can be reasonably regarded as of relevance to the soundness of that revision. The Inspector will have discretion to determine whether a representation about a retained or a linked policy should be regarded as relevant and considered as an objection requiring to be heard at examination.

**Joint Plans and Joint Working**



4.51 Two or more authorities may agree to prepare a joint LDP for their areas (section 72 of the 2004 Act and LDP Regulation 36). The Assembly Government recognises that there will be circumstances where joint working and plan preparation offers advantages in terms of the quality of the plans produced and also effective tackling of cross boundary issues.

4.52 Where two or more authorities agree to prepare a joint LDP, each authority must comply with the procedures for the preparation of the joint LDP as required if preparing an LDP separately. After a joint plan has been adopted each authority may prepare proposals to alter or replace it in relation to its individual area.

4.53 Authorities may consider that, in preparing their own LDPs, it is advantageous to carry out certain aspects of plan preparation in tandem or through joint working arrangements.

### **Availability of Documents**

4.54 An authority is required to publish (including on its web-site) and make available for public inspection the Delivery Agreement (i.e. the timetable and CIS) and the adopted LDP (LDP Regulations 10 & 39). It must also advertise the availability of the plan and the various other documents, reports and statements produced during the procedure leading to its adoption. Copies of these other documents must remain available for public inspection until six weeks after the date of publication of the notice of adoption or approval of the plan (the period for legal challenge) (LDP Regulation 38). Any direction or notification from the Assembly Government about the plan must also be available for inspection.

4.56 Copies of the plan and associated public documents should be available for purchase at a reasonable price. As soon as practicable, the adopted LDP should be printed and made available both for inspection and for purchase at a reasonable charge.

4.57 Authorities should consider the benefits of providing plan information on their **websites** and the Planning Portal<sup>30</sup>. Digital mapping allows an authority to make plans, maps and diagrams in plans available in computerised format subject to appropriate copyright safeguards. It is important that all the information relating to the plan is held together in a single source directory which allows the plan and other data to be correlated and analysed more easily. Proposals maps should be available in electronic form, both for accessibility and to enable them to be dynamic and responsive to change, as LDPs are reviewed and policies and proposals are revised. However, irrespective of whether the plan is available in digital format, paper copies of all documents during each step leading up to the adoption of the plan are required to be made available for inspection.

### **Use of English and Welsh**

4.58 As public bodies, authorities in Wales are obliged to give effect, under the Welsh Language Act 1993, so far as is appropriate in the circumstances and reasonably practicable, to the principle that in the conduct of public business the English and Welsh languages should be treated on a basis of equality. The way in which each authority gives effect to that principle is set out in its Welsh Language Scheme. The Scheme is likely to be relevant to all stages of the process of preparing and revising LDPs but particularly to the way in which authorities publicise proposals, consult with the public, communicate with those making representation and make arrangements for the conduct of examination proceedings. Pre-examination meetings provide a forum where practical questions relating to the

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<sup>30</sup> The Planning Portal is a web-based portal being developed jointly by the Office of the Deputy Prime Minister (ODPM) and the Assembly Government. It provides a 'one-stop electronic shop' for users of the planning system - professionals, agents, government, and the general public - to be able to access a range of planning services. It accessed at: <http://www.planningportal.gov.uk>

languages used at the examination can be discussed so that those who wish to participate in the process through the medium of either the English or Welsh language may do so effectively.

## **5. SUPPLEMENTARY PLANNING GUIDANCE (SPG)**

5.1 LDPs should contain sufficient policies and proposals to provide the basis for deciding planning applications, and for determining conditions to be attached to planning permissions, but they should avoid excessive detail. Selective use of supplementary planning guidance (SPG) is a means of setting out more detailed thematic or site specific guidance on the way in which the policies of an LDP will be applied in particular circumstances or areas.

5.2 SPG does not form a part of the development plan but must be consistent with it. It may take the form of site specific guidance such as master plans, design guides or area development briefs, or thematic such as shopfront guidance or detailed car parking standards. It should be **clearly cross-referenced to the relevant adopted plan policy or proposal**, which it supplements, and may be issued separately from the plan. It should be made publicly available and its status made clear. SPG should be reviewed on a regular basis alongside the annual monitoring reviews of the development plan. Any proposed review of the policies on which SPG is based should include review of that SPG. Key SPG being produced in tandem with the LDP should be listed in the Delivery Agreement.

5.3 While only the policies in the development plan have special status under section 38(6) of the 2004 Act in deciding planning applications, SPG may be taken into account as a material consideration. SPG should be prepared in accordance with an authority's CIS; consultation should involve the general public, businesses, and other interested parties and their views should be taken into account before the SPG is finalised (see Annex A). It should then be approved by a Council resolution. A statement of the consultation undertaken, the representations received and the authority's response to those representations should be made available with the approved SPG, either in an annex or in a separate document. In making decisions on matters that come before it, the Assembly Government and the Planning Inspectorate will give substantial weight to approved SPG which derives out of and is consistent with the development plan, and has been prepared consistent with the above advice.

5.4 SPG can play a useful role in supplementing plan policies and proposals. However, SPG should not be used to avoid subjecting plan policies and proposals to public scrutiny in accordance with statutory procedures. Plan policies should not attempt to delegate the criteria for decisions on planning applications to SPG.

## **6. ASSEMBLY GOVERNMENT ROLE IN THE PLAN PROCESS AND HIGH COURT CHALLENGE AND REVOCATION**

### **Assembly Government Powers and Involvement**

#### *- General Involvement*

6.1 The Assembly Government will become involved in the development plan process via:

i. *Delivery Agreement (section 63 of the 2004 Act)*

An authority is required to submit to the Assembly Government for agreement the terms of its timetable for plan preparation and adoption and its CIS (i.e. the Delivery Agreement – LDP Regulation 9). The Assembly Government has the power to direct the terms of these documents where agreement cannot be reached.

ii. *Pre-Deposit Plan Preparation (LDP Regulations)*

The Assembly Government is a statutory consultee for LDPs (see Annex A), including sustainability appraisal, and should be consulted at an early stage of the plan-making process. Ongoing dialogue with the Assembly Government should prevent the need for more formal interventions to be made later in the plan process.

iii. *Deposit (LDP Regulations)*

The Assembly Government will scrutinise plans, alterations to plans, and replacement plans to identify whether they are consistent with national policy and whether there are conflicts which do not appear to be justified by robust evidence of local circumstances. The Assembly Government may register representations, including objections, to the deposited plan.

#### *- Powers of Direction (the 2004 Act)*

6.2 The Assembly Government has wide-ranging powers of direction in relation to LDPs including to:

- i. direct an authority to modify its plan in a specified manner before adoption - *section 65(1)*
- ii. call-in a plan for the Assembly Government's determination - *section 65(4)*
- iii. direct in relation to withdrawal of the LDP prior to adoption – *section 66(2)(b)*
- iv. direct an authority not to adopt the plan where the recommendations of the examination inspector are considered to be in conflict with national policy – *section 67(4)*
- v. direct that a plan shall be revised (i.e. altered or replaced) - *section 70(2)*
- vi. direct, where an authority withdraws from an agreement to prepare a joint LDP, the resumption of the independent examination and that steps taken for the purpose of the joint plan examination are to have an effect in relation to the corresponding individual plan of that authority – *section 72(7)*

6.3 However, the Assembly Government's powers to direct modifications to the plan or to call-in all, or part, of a plan for its own determination will be used only as necessary in a limited range of circumstances, and albeit as a last resort. Such intervention will only be considered where an LDP:

- i. raises issues of national importance, or
- ii. extends beyond the area of the plan making authority (except to the area of joint plans)

Further details of the circumstances in which such powers might be used are given in the *LDP Manual*.

**- Default Powers (section 71 of the 2004 Act)**

6.4 The Assembly Government has powers of default where it thinks an authority is failing or omitting to do anything necessary in connection with the preparation, alteration or adoption of the LDP or replacement plan and can direct the preparation, alteration or replacement of an LDP within specified timescales.

**High Court Challenge (section 113 of the 2004 Act)**

6.5 Any person can challenge the validity of an LDP or any revision to it on the grounds that it is not within the powers conferred by Part 6 of the 2004 Act, or that requirements in that Part of the 2004 Act or Regulations made under it (i.e. the LDP Regulations) have not been complied with. In such circumstances an application may be made to the High Court to have the plan or part of the plan quashed. Applications must be made within six weeks of the date of the published notice that the plan has been adopted.

**Revocation (section 68 of the 2004 Act)**

6.6 The Assembly Government may revoke an LDP at the request of the authority at any time. The authority 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)).

## 7. TRANSITIONAL ARRANGEMENTS

### Introduction

7.1 The Assembly Government expects authorities to embrace the new development plan system as soon as possible following 'full commencement' of the LDP provisions of Part 6 of the 2004 Act in the spirit of working together to improve the planning system. The importance of the LDP to the objectives of *Planning: delivering for Wales* cannot be understated.

7.2 The objectives which underlie the transitional arrangements are:

- i. to move as quickly as possible from the system of unitary development plans (UDPs) to one of LDPs with minimal disruption and building on work already undertaken;
- ii. to maintain continuity in the development plans system as a framework for development control; and
- iii. to minimise transitional costs.

7.3 The relevant secondary legislation in relation to the transitional arrangements is:

- i. Planning and Compulsory Purchase Act 2004 (Commencement No.3 and Consequential and Transitional Provisions) (Wales) Order 2005<sup>31</sup>;
- ii. Planning and Compulsory Purchase Act 2004 (Commencement No.4 and Consequential, Transitional and Savings Provisions) (Wales) Order 2005;
- iii. The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005<sup>32</sup> (– see Regulation 2); and
- iv. The Planning and Compulsory Purchase Act 2004 (Commencement No.6, Transitional Provisions and Savings) Order 2005<sup>33</sup>.

7.4 At 'full commencement' of Part 6 of the 2004 Act, each authority will fall into one of three categories in relation to the commencement of their LDP:

- **Category A:** those 9 authorities<sup>34</sup> under an existing duty to prepare an LDP by virtue of the Commencement No3W Order. (Those 16 authorities than exempt from the duty under section 62(1) of the 2004 Act to prepare an LDP are listed in the Schedule to the Order.) (*The transitional arrangements made under the Commencement No.3W Order were brought to an end by the Commencement No4W Order*);

- **Category B:** those authorities which are named in the Schedule to the Commencement No3W Order (see at Category A above) but have commenced some LDP preparation work before 'full commencement' (but without the formal agreement of the Assembly Government); and

- **Category C:** those authorities which intend commencing LDP preparation after 'full commencement'.

### Plan Inheritance – Continuation of Unitary Development Plans or other Existing Plans

7.5 Existing development plans (whether adopted by the authority or approved by the Assembly Government or the Secretary of State for Wales) which relate to any part of Wales

<sup>31</sup> 'the Commencement No3W Order'

<sup>32</sup> 'the LDP Regulations'

<sup>33</sup> 'the Commencement No6 Order'

<sup>34</sup> Caerphilly CBC, Conwy CBC, Cardiff CC, Denbighshire CC, Merthyr Tydfil CBC, Rhondda Cynon Taf CBC, Snowdonia NPA, Torfaen CBC, Wrexham CBC

will continue in force on and after commencement. An existing plan is defined as a UDP, structure plan, local plan and any old development plan to the extent that it was in force in any area of Wales immediately before 'full commencement'.

7.6 An existing plan and any plan prepared under the transitional provisions will cease to have effect for the area of the appropriate authority when an LDP becomes operative for that area.

### **Development Plans: Transitional Provisions**

7.7 The transitional provisions apply in relation to the area of any authority in Wales from commencement until the LDP for that area has become fully operative.

7.8 A UDP that has not been adopted may remain a consideration in development control decisions until such time as the LDP is adopted, unless it is formally abandoned by the authority in favour of an emerging LDP. The weight to be attached to a draft UDP would depend on how far it had been taken towards adoption and whether objections had been received to the particular policies. The weight to be attached to emerging draft LDPs is likely also to increase the further they are taken towards adoption.

7.9 In relation to Joint Housing Land Availability Studies, where a UDP has not been adopted but the authority has received the Inspector's report and includes housing site allocations that have not been recommended for deletion, those sites can be included in the authority's calculation of the housing land supply figure<sup>35</sup>.

#### *Stopping Work on a UDP:*

7.10 In accordance with transitional provisions of the 'Commencement No4W Order', when an authority named in the Schedule to the Order<sup>36</sup> resolves its intention to stop work on its UDP (either before or after adoption) it must comply with article 6 of the Order. It must within 3 weeks of the resolution inform the Assembly Government of that resolution and of the current development plan status for its area. It must also, within 4 weeks, publish that information on its website. The Assembly Government will then prepare the necessary secondary legislation (a local order) to authorise the formal move to LDP preparation.

#### *LDP Delivery Agreement Submission:*

7.11 The requirements in relation to the timing of submission of the first Delivery Agreement to the Assembly Government by an authority are:

- i. **Category A** authorities before 31 July 2006, if they have not already done so;
- ii. **Category B** and **C** authorities, either,
  - a. within 6 months of the receipt of the Inspector's report on their UDP or, if there are exceptional circumstances, at a date to be agreed with the Assembly Government; or
  - b. where the Inspector's report is received prior to 'full commencement', before 31 July 2006 or, if there are exceptional circumstances, at a date to be agreed with the Assembly Government.

#### *LDP Annual Monitoring Report:*

7.12 Where an authority has adopted its first LDP, the LDP annual monitoring report must be submitted to the Assembly by 31 October of the year following adoption, unless less than 12

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<sup>35</sup> Clarification letter on Housing Land Availability Calculations, dated August 2005, is on the Assembly web-site at [www.wales.gov.uk/subiplanning/index.htm](http://www.wales.gov.uk/subiplanning/index.htm)

<sup>36</sup> Blaenau Gwent CBC, Brecon Beacons NPA, Carmarthenshire CC, Ceredigion CC, Flintshire CC, Gwynedd CC, Isle of Anglesey CC, Monmouthshire CC, Neath Port Talbot CBC, Newport CC, Pembrokeshire CC, Pembrokeshire Coast NPA, Powys CC, Swansea CC.

months would have passed since adoption, in which case by 31 October of the subsequent year.

*Work on LDPs undertaken prior to 'full commencement':*

7.13 Regulation 3(2) of the LDP Regulations allows those authorities not previously under a duty to commence their LDPs (i.e. **category B** and **C** authorities), to count work, which has been undertaken prior to commencement of that duty, for the purposes of preparing an LDP.

7.14 Where relevant, an authority submitting an LDP for examination in accordance with Regulation 22 of the LDP Regulations should also provide a statement of:

- i. any actions towards the preparation of an LDP which were carried out prior to becoming subject to the duty to prepare an LDP ; and
- ii. an explanation of how they have complied with the requirements of the relevant Regulations.

7.15 Authorities should be aware that the provision to undertake work prior to commencement does not absolve them from the requirements of the SEA Regulations, or the requirement under the 2004 Act to undertake a sustainability appraisal of LDPs (see section 3).



## **8. CANCELLATION OF PREVIOUS ADVICE**

8.1 *Unitary Development Plans Wales, (Welsh Assembly Government, 2001)* will continue to be relevant for UDPs taken forward by authorities in accordance with the transitional provisions<sup>37</sup> (see section 7).

8.2 Guidance provided in remaining parts of *PPG 12 (Wales): Development Plans and Strategic Planning Guidance in Wales, (Welsh Office, 1992)* will continue to be of relevance for structure plans and local plans previously taken forward by authorities in accordance with the provisions of Schedule 5 to the Local Government (Wales) Act 1994.

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<sup>37</sup> Planning and Compulsory Purchase Act 2004 (Commencement No.4 and Consequential, Transitional and Saving Provisions) (Wales) Order 2005.

## **ANNEX A**

### **CONSULTEES FOR LOCAL DEVELOPMENT PLANS**

- B1 Section 4 contains guidance on the plan preparation process. An authority will decide whom it will engage and consult and at various stages of the plan preparation process; this information will be contained in its community involvement scheme (CIS) which forms part of its Delivery Agreement. Authorities will need to comply with the requirements of the 2004 Act and the LDP Regulations in relation to engagement of, and consultation with, the 'specific consultation bodies' and the 'general consultation bodies' (see below).
- B2 SPECIFIC CONSULTATION BODIES (defined in LDP Regulation 3)**  
Authorities must consult the following bodies in accordance with the 2004 Act and the LDP Regulations:
- i. **The Assembly Government**  
In addition to planning, the Assembly Government has responsibility for a wide range of policy matters including agriculture, economic development, education, environment, health and social services, historic environment, housing, industry and transport. The Assembly Government's **Planning Division** will co-ordinate consultations within the Assembly Government.
  - ii. **Countryside Council for Wales**
  - iii. **Environment Agency**
  - iv. **Secretary of State – insofar as the Secretary of State exercises functions previously exercisable by the Strategic Rail Authority**
  - v. **A relevant authority (i.e. a local planning authority or a community or town council), any part of whose area is in or adjoins the area of the authority**
  - vi. **Any person –**
    - a) **to whom the electronic communications code applies by virtue of a direction given under section 106(3) of the Communications Act 2003; and**
    - b) **who owns or controls electronic apparatus situated in any part of the authority's area (where known)**
  - vii. **Any of the bodies from the following list which are exercising functions in any part of the authority's area:**
    - a. **a Local Health Board**
    - b. **a person to whom a license has been granted under section 6(1)(b) or (c) of the electricity Act 1989**
    - c. **a person to whom a license has been granted under section 7(2) of the Gas Act 1986**
    - d. **a sewerage undertaker**
    - e. **a water undertaker**
- B3 UK GOVERNMENT DEPARTMENTS**  
An authority should consult UK Government departments where aspects of a plan, or proposals for its alteration or replacement, appear to affect their interests. In particular, the following should be consulted on the policy areas outlined below:

- i. **Department for Transport** Rail, airport and maritime / port policy
- ii. **Department of Trade and Industry** National energy matters
- iii. **Home Office** Civil defence matters; policies for prisons etc
- iv. **Ministry of Defence** Matters likely to affect its land holdings and installations or where large scale disposals of MOD land may be being considered.

**B4 GENERAL CONSULTATION BODIES (defined in LDP Regulation 3)**

The following are the 'general consultation bodies' that should be consulted in accordance with an authority's Delivery Agreement:

- i. **Voluntary bodies, some or all of whose activities benefit any part of the authority's area**
- ii. **Bodies which represent the interests of different racial, ethnic or national groups in the authority's area**
- iii. **Bodies which represent the interests of different religious groups in the authority's area**
- iv. **Bodies which represent the interests of disabled persons in the authority's area**
- v. **Bodies which represent the interests of persons carrying on business in the authority's area**
- vi. **Bodies which represent the interests of Welsh culture in the authority's area**

**B5 OTHER CONSULTEES**

An authority should also consider the need to consult, where appropriate, the following agencies and organisations, in accordance with its Delivery Agreement:

**Airport Operators**  
**British Aggregates Association**  
**British Geological Survey**  
**British Waterways, canal owners and navigation authorities**  
**Centre for Ecology and Hydrology**  
**Chambers of Commerce, local CBI and local branches of Institute of Directors**  
**Civil Aviation Authority**  
**Coal Authority**  
**Commission for Racial Equality**  
**Country Landowners and Business Association**  
**Crown Estate Office**  
**Design Commission for Wales**  
**Disability Wales**  
**Disability Rights Commission**

Disabled Persons Transport Advisory Committee  
Electricity, Gas and Telecommunications Companies and the National Grid Company  
\*\*ELWa  
Environmental groups at national and regional level  
Environmental Services Agency (Waste)  
Equal Opportunities Commission  
Fire and Rescue Services  
Forestry Commission Wales  
Freight Transport Association  
Gypsy Council  
Health and Safety Executive (HSE)  
Farmers Union Wales  
Federation of Small Businesses  
The Home Builders Federation  
Local community, conservation and amenity groups, including Agenda 21 Groups/Civic Societies  
Local transport operators  
National Farmers Union for Wales  
National Playing Fields Association  
Network Rail + Train Operating Companies  
One Voice Wales  
Planning Aid Wales  
Police Architectural Liaison Officers  
Port Operators  
Post Office Property Holdings  
Professional Bodies not specifically listed (e.g. Royal Institution of Chartered Surveyors Wales, Royal Town Planning Institute in Wales, Chartered Institute of Housing Cymru, Institution of Civil Engineers, Chartered Institution of Waste Management)  
Quarry Products Association Wales  
Rail Freight Group  
Sports Council for Wales  
Traveller Law Reform Coalition  
Wales Council for Voluntary Action  
\*\*Wales Tourist Board  
Water Companies  
\*\*Welsh Development Agency  
Wales Environment Link  
Welsh Environmental Services Association (representing waste industry)  
\*\*Welsh Language Board

***\*\* these bodies are all to be part of ASPBs merger into the Welsh Assembly Government during 2006/7; the Assembly Government will then manage consultation from authorities for these interests.***

**ANNEX B - Glossary of Terms (and Abbreviations)**

- (see also the Glossary contained in the LDP Manual)

Annual Monitoring Report (AMR)	This will assess the extent to which policies in the LDP are being successfully implemented.
Baseline	A description of the present state of an area.
Community	People living in a defined geographical area, or who share other interests and therefore form communities of interest.
Community Involvement Scheme (CIS)	Sets out the project plan and policies of the LPA for involving local communities, including businesses, in the preparation of LDPs. The CIS is submitted to the Assembly Government as part of the Delivery Agreement for agreement.
Community Strategy	Local authorities are required by the Local Government Act 2000 to prepare these, with the aim of improving the social, environmental and economic well being of their areas. Responsibility for producing community strategies may be passed to Community Strategy Partnerships, which include local authority representatives.
Consensus building	A process of early dialogue with targeted interest groups to understand relevant viewpoints.
Consultation	A formal process in which comments are invited on a particular topic or set of topics, or a draft document.
Consultation Report	Report of consultation required under LDP Regulation 22 (see paragraph 4.33) when the LDP is submitted for independent examination. An initial consultation report covering the pre-deposit plan preparation stage is required under LDP Regulation 17(c) (see paragraph 4.23).
Delivery Agreement	A document comprising the LPA's timetable for the preparation of the LDP together with its CIS, submitted to the Assembly Government for agreement.
Development control policies	A suite of criteria-based policies which will ensure that all development within the area meets the aims and objectives set out in the Strategy.
Engagement	A process which encourages substantive deliberation in a community. Proactive attempt to involve any given group of people/section of the community.
Environmental Consultation Body	An authority with environmental responsibilities concerned by the effects of implementing plans and programmes and which must be consulted under the SEA Regulations; i.e. Countryside Council for Wales, Environment Agency and Cadw..
Involvement	Generic term to include participation and consultation techniques.
Local Development Plan (LDP)	The required statutory development plan for each local planning authority area in Wales under Part 6 of the Planning and Compulsory Purchase Act 2004.
Local Planning Authority ('authority')	A planning authority responsible for the preparation of an LDP; i.e. County or County Borough Council, or National Park Authority.

**Local Development Plans Wales, (Welsh Assembly Government, 2005)**

Local Strategic Partnership	Partnerships of stakeholders which bring together service providers, private, community and voluntary sectors to identify and meet local needs more effectively and in a joined up way; usually engaged in producing Community Strategies.
Objective	A statement of what is intended, specifying the desired direction of change in trends.
Participation	A process whereby stakeholders and the community can interface with plan makers.
Planning: delivering for Wales	<i>Planning: delivering Wales</i> is a programme of the Assembly Government. It aims to make needed changes to the existing planning system in order that development plan policies and planning decisions taken will be seen to be more clear, fair, open and transparent. This programme for change affects the procedures, systems, internal processes and structure of the Assembly Government's Planning Division, local planning authorities, relevant statutory bodies and stakeholders in the planning system.
Service Level Agreement	An agreement with a statutory agency which sets the standards which it will aim to meet, and the costs arising. The Planning Inspectorate agrees one with the local planning authority in respect of an LDP examination, setting out the likely timescales and cost of the examination and providing the local planning authority with clear guidance on the nature of their own responsibilities.
Site specific allocations	Allocations of sites (proposals) for specific or mixed uses or development contained in a LDP. Policies will identify any specific requirements for individual proposals. Allocations will be shown on the LDP's proposals map.
Soundness	Concept against which an LDP is examined under section 64(5)(b) of the 2004 Act. Criteria for assessing soundness are at paragraph 4.35.
Stakeholders	Interests directly affected by the LDP (and / or SEA) – involvement generally through representative bodies.
Strategic Environmental Assessment (SEA)	Generic term used internationally to describe environmental assessment as applied to policies, plans and programmes. The SEA Regulations require a formal "environmental assessment of certain plans and programmes, including those in the field of planning and land use".
Supplementary planning guidance (SPG)	Supplementary information in respect of the policies in an LDP. SPG does not form part of the development plan and is not subject to independent examination but must be consistent with it and with national policy.
Sustainability Appraisal Report	A document required to be produced as part of the sustainability appraisal process to describe and appraise the likely significant effects on sustainability of implementing the LDP, which also meets the requirement for the Environmental Report under the SEA Regulations. S62(6) of the 2004 Act requires each local planning authority to prepare a report of the findings of the sustainability appraisal of the LDP.
Sustainability Appraisal	Tool for appraising policies to ensure they reflect sustainable development objectives (i.e. economic, environmental and social factors). Each local planning authority is required by S62(6) of the 2004 Act to undertake sustainability appraisal of its LDP. This form of sustainability appraisal fully incorporates the requirements of the SEA Directive &

**Local Development Plans Wales, (Welsh Assembly Government, 2005)**

	Regulations.
Sustainable Development	Development that meets the needs of the present without compromising the ability of future generations to meet their own needs ( <i>Planning Policy Wales, para 2.1.1</i> )
Wales Spatial Plan	A plan prepared and approved by the National Assembly for Wales under S60 of the 2004 Act, which sets out a strategic framework to guide future development and policy interventions, whether or not these relate to formal land use planning control. Under S62(5)(b) of the 2004 Act a local planning authority must have regard to the WSP in preparing an LDP.
Unitary Development Plan (UDP)	The required statutory development plan for each local planning authority area in Wales under the Town and Country Planning Act 1990.

**ANNEX C - Statutes and Documents Referenced (*and their Abbreviations*)**

**i. Statutes Referenced (*and their Abbreviations*):**

Disability Discrimination Act 1995

Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 – *SI No.2004/1656 (W.170) - ('the SEA Regulations')*

European Union Directive 2001/42/EC on the *assessment of the effects of certain plans and programmes on the environment - ('the SEA Directive')*

Local Government Act 2000

Local Government (Wales) Act 1994

Planning and Compulsory Purchase Act 2004 – (*'the 2004 Act'*)

Transport Act 2000

Planning and Compulsory Purchase Act 2004 (Commencement No.3 and Consequential and Transitional Provisions) (Wales) Order 2005 – *SI No.2005/1229 (W.87) (C.56) - ('the Commencement No3W Order')*

Planning and Compulsory Purchase Act 2004 (Commencement No.4 and Consequential, Transitional and Savings Provisions) (Wales) Order 2005 – *SI No.2005/2722 (W.193 (C.110) – ('the Commencement No4W Order')*

Race Relations (Amendment) Act 2000

The Planning and Compulsory Purchase Act 2004 (Commencement No.6, Transitional Provisions and Savings) Order 2005 – *SI No.2005/2847 (C.118) – ('the Commencement No6 Order')*

Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 – *SI No.1999/293*

The Town and Country Planning (Local Development Plan)(Wales) Regulations 2005 – *SI No.2005/2839 (W.203)*

Welsh Language Act 1993

**ii. Documents Referenced:**

*Guidance on Local Transport Plans in Wales*, (Welsh Assembly Government, September 1999).

*Guide to the Examination of Local Development Plans*, (Planning Inspectorate, available early 2006)

*Local Development Plan Manual*, (Welsh Assembly Government, to issue early 2006)

*Minerals Planning Policy Wales*, (Welsh Assembly Government, December 2000)



***Local Development Plans Wales, (Welsh Assembly Government, 2005)***

*Planning Policy Wales, (Welsh Assembly Government, March 2002)*

*PPG 12 (Wales): Development Plans and Strategic Planning Guidance in Wales, (Welsh Office, 1992)*

*Preparing Community Strategies – Guidance to Local Authorities from the National Assembly for Wales, (August 2001); + Community Strategies Leaflet, (2002).* (The Assembly Government intends to revise guidance within the next few months.)

*Sustainability Appraisal of Unitary Development Plans: A Good Practice Guide, (Welsh Assembly Government, 2002)*

*Sustainable Development Scheme, (National Assembly for Wales, 2000, revised 2004)*

*The Relationships between Community Strategies and Local Development Frameworks, (ODPM, October 2003)*

*Unitary Development Plans Wales, (Welsh Assembly Government, 2001)*

*People, Places, Futures – The Wales Spatial Plan, (Welsh Assembly Government, adopted by the National Assembly for Wales on 17 November 2004)*

## **ANNEX D – Bodies Represented on Wales Planning Forum and LDP Stakeholder Group**

### **Wales Planning Forum**

Campaign for the Protection of Rural Wales  
Cardiff University School of Regional and Town Planning  
Planning Officers Society Wales  
Country Landowners Association  
Country Land & Business Associates  
Countryside Council for Wales  
Design Commission for Wales  
Disability Wales  
House Builders Federation  
Law Society  
Planning Aid Wales  
Royal Institute of Chartered Surveyors  
Royal Society of Architects in Wales  
  
Royal Town Planning Institute in Wales  
The Planning Inspectorate  
Wales Council for Voluntary Action  
Welsh Development Agency  
Welsh Women's National Coalition  
Welsh Local Government Association  
Wales Planning Policy Panel  
Environment Agency Wales  
PEBA  
Wales Transport Strategy Group  
AWEMA  
CBI Wales  
Wales Environment Link

### **LDP Stakeholder Group:**

Local government (the Welsh Local Government Association),  
Local planning authorities (Planning Officers Society Wales),  
Voluntary sector (Welsh Council for Voluntary Action),  
Private sector (House Builders Federation),  
Academic sector (Cardiff University),  
Environmental bodies (Environment Link),  
The Royal Town Planning Institute in Wales,  
Planning Inspectorate,  
Welsh Assembly Government's Planning Division.

## **ANNEX E - Essential Contacts**

### **Welsh Assembly Government**

Development Plans and EIA Branch  
Planning Division (P3)  
Cathays Park  
Cardiff  
CF10 3NQ  
(Tel: Switchboard: 029 2082 5111)  
[www.wales.gov.uk/subiplanning/index.htm](http://www.wales.gov.uk/subiplanning/index.htm)

### **The Planning Inspectorate Wales**

(Room 1-107)  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ  
(Tel: 029 2082 3892 /1581)  
[www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

## **Environmental Consultation Bodies (paragraph 3.8 refers):**

### **Countryside Council for Wales**

Maes-y-Ffynnon  
Penrhosgarnedd  
Bangor  
Gwynedd  
LL57 2DW  
(Tel: Enquiry Line: 0845 1306229)  
[enquiries@ccw.gov.uk](mailto:enquiries@ccw.gov.uk)  
[www.ccw.gov.uk](http://www.ccw.gov.uk)

### **Environment Agency (3 Area Offices)**

South East  
Area Planning and Corporate Services Manager  
Environment Agency Wales  
Rivers House  
St Mellons Business Park  
St Mellons  
Cardiff  
CF3 0EY  
(Tel: General enquiries: 08708 506 506)  
[enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

South West  
Area Planning and Corporate Services Manager  
Environment Agency Wales  
Maes Newydd  
Llandarcy  
Neath Port Talbot  
SA10 6JQ

(Tel: General enquiries: 08708 506 506)  
enquiries@environment-agency.gov.uk

North  
Area Planning and Corporate Services Manager  
Environment Agency Wales  
Ffordd Penlan  
Parc Menai  
Bangor  
Gwynedd  
LL57 4DE  
(Tel: General enquiries: 08708 506 506)  
enquiries@environment-agency.gov.uk

**Cadw**

Plas Carew  
Unit 5/7 Cefn Coed  
Parc Nantgarw  
Cardif  
CF15 7QQ  
(Tel: 01443 336000)  
[Cadw@wales.gsi.gov.uk](mailto:Cadw@wales.gsi.gov.uk)