

<b>MEETING</b>	<b>Joint Planning Policy Committee</b>
<b>DATE</b>	<b>14 July 2017</b>
<b>NAME</b>	<b>Inspector's Report and related document</b>
<b>PURPOSE</b>	<ul style="list-style-type: none"> <li><b>i. Inform the Committee that the Inspector's Report has been received;</b></li> <li><b>ii. Draw attention to its contents;</b></li> <li><b>iii. Draw attention to issues and options associated with this stage in the process;</b></li> <li><b>iv. Draw attention to related documents required at this stage in the process of preparing the Joint Local Development Plan</b></li> </ul>
<b>RECOMMENDATION</b>	<b>The Committee formally accept the Inspector's Report and notes its contents, agrees that the process up to the adoption stage has been completed, notes the issues and options, and notes the required related documents</b>
<b>AUTHOR</b>	<b>Planning Manager (Policy) Anglesey and Gwynedd Joint Planning Policy Unit</b>

## Background

1. This report represents the culmination of 6 years work in seeking to secure an adopted local development plan for the Anglesey and the Gwynedd Local Planning Authority areas. As the Councils have now recently received the Inspector's Report, they have a duty to adopt the Plan within 8 weeks of receipt. The Inspector's Report is binding so there is no opportunity to request changes at this stage.
2. Work commenced on the Plan in 2011 and has followed a complex statutory process to reach the current position all of which are detailed on the [Plan's web pages](#).
3. As the existing Development Plans are out of date by now, it is crucial that a new Plan is adopted in order to provide an up to date framework, which gives the certainty to effectively facilitate future development that meets the needs of the communities in the area, and to prevent development that may have a significant adverse impact on communities. This also fulfils the Councils' duties under the Planning and Compulsory Purchase Act (2004), which requires local planning authorities to prepare and keep under review a Plan for their individual areas. Welsh Government emphasises that up-to-date local development plans are a fundamental part of a plan-led planning system and set the context for rational and consistent decision making in line with national policies. The function must be exercised as part of carrying out sustainable development in accordance with the Well-being of Future Generations (Wales) Act 2015, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales (Section 2 of the 2015 Act). It therefore emphasises that

authorities should give high priority to local development plan preparation, monitoring and revision to ensure up to date plans are in place.

4. The Plan, once adopted, will be used by the Councils to facilitate and manage development, providing a statutory basis by which planning applications will be determined. The Plan will also provide a planning policy basis to inform Local Impact Reports and certainty to prospective developers intending to invest in the area. These Reports will form an essential part of a package of documents required by the Councils in relation to the applications for Development Consent Orders for Wylfa Newydd and the North Wales Connections Project (National Grid). If adopted, the Plan will supersede the existing adopted development plan frameworks for the Gwynedd Local Planning Authority area and the Isle of Anglesey Planning Authority area, which are as follows:

<u>Isle of Anglesey Planning Authority Area</u>	<u>Gwynedd Planning Authority Area</u>
<ul style="list-style-type: none"> <li>• Gwynedd Structure Plan (1993)</li> <li>• Anglesey Local Plan (1996)</li> </ul>	<ul style="list-style-type: none"> <li>• Gwynedd Unitary Development Plan (2009)</li> </ul>

In Anglesey, the Plan will also supersede the Anglesey Unitary Development Plan (stopped 2005) and Interim Planning Policies.

5. In the course of preparation, the Plan has progressed through the following stages:
- (i) Delivery Agreement public consultation (14 April 2011 – 2 June 2011)
  - (ii) Anglesey County Council and Gwynedd Council approved the Delivery Agreement on 13 September and 20 October 2011, respectively.
  - (iii) Call for candidate sites (11 October 2011 – 17 April 2014)
  - (iv) Vision, Objectives and strategic growth and distribution options public engagement (8 November 2011 – 31 January 2012)
  - (v) Preferred Strategy public consultation (9 May – 27 June 2013)
  - (vi) Deposit Plan public consultation (16 February – 31 March 2015)
  - (vii) Focus Changes public consultation (25 February - 13 April 2016)
  - (viii) Submission to Welsh Government (March 2016)
  - (ix) Examination by Independent Inspectors (March 2016 – June 2017)
  - (x) Inspector’s Report (June 2017)
6. The above schedule shows that the Plan’s preparation process has included a number of extensive public consultation and engagement periods. During these sessions the public, Members, community, town and city councils, and a range of stakeholders were given an opportunity to get involved, - to submit comments and information to be considered and tested. In the course of preparation of the Plan, the Anglesey and Gwynedd Joint Planning Policy Unit has briefed and engaged with Members at key stages as well as submitting reports to relevant committees – see Appendix 1 (each appendix referred to in this report has been electronically attached as links, due to the size of the document).

## Examination

7. The Plan must be prepared in accordance with the Planning Act (Wales) 2015 (apart from Section 2, which relates to the Well-being of Future Generations (Wales) Act 2015<sup>1</sup>), Planning and Compulsory Purchase Act 2004, Town and Country Planning (Local Development Plan) (Wales) 2005 Regulations, Planning Policy Wales and the Local Development Plan Manual (2015).
8. Legislation requires the Plan to be 'sound'. In order to determine whether the Plan satisfied the tests of soundness contained in national policy as set out [in paragraph 2.7.2](#), an Inspector has to consider the evidence that the local planning authorities require to inform their local development plans. The evidence has to cover several matters that are locally relevant. The Deposit Plan, Sustainability Appraisal Report (incorporating the Strategic Environmental Assessment) (SA/ SEA), Habitat Regulations Assessment report (HRA) and an Equalities Impact Assessment report were submitted to the Welsh Government and in turn the Planning Inspectorate for Examination on 18th March 2017. The SA/ SEA and HRA reports and an up- to- date Delivery Agreement were required to demonstrate that legal and regulatory procedural requirements had been achieved. The Councils also submitted a range of background assessments, topic papers and other supporting evidence to set out the extensive information that underpins the preparation of the Plan. These documents include various iterations of the Welsh Language Impact report, Consultation Report, Affordable Housing Viability Study, Employment Land Review. All these documents can be viewed [in the Examination library](#)
9. Two Inspectors were appointed by Welsh Government Ministers to examine the soundness of the Plan: Mr Hywel Jones BA (Hons), BTP, MRTPI as lead Planning Inspector and Mr Richard Duggan BSc (Hons) Dip TP, MRTPI as assistant Planning Inspector.
10. The Pre-hearing meeting was held on 14th June 2016 and the first round of 16 Hearing Sessions commenced on 6<sup>th</sup> September 2016 covering a wide range of topics relating to all aspects of the Plan. Objectors or their representatives who had stated that they wished to take part in the Examination attended relevant Hearing Sessions. These Hearing Sessions covered a range of strategic and policy matters including: the Plan's Strategy, Housing and Distribution, Affordable Housing, Gypsy and Traveller Need, Economy, Welsh language, Renewable Energy, etc. as well as site specific matters and representations. The Inspector took charge of the Hearings, asking questions to the Councils and the objectors alike. He set action points for the Councils in order for them to address issues of soundness raised during the discussion (e.g. make specific changes to the Plan's policies, or to clarify issues relating to the evidence base). The action points were registered in a schedule in the Examination Library. In relation to those who decided not to attend, it should be noted that all representations (whether made at a hearing session or in writing) were given the same weight by the Inspectors.
11. Following completion of the first round of Hearing Sessions, the Councils published a Schedule of Matters Arising Changes (MACs) for public consultation. The MACs addressed action points raised by the Inspectors and sought to ensure that the Plan met the tests of soundness and responded to the need to comply with national policy and primary legislation. These MACs were proposed in accordance with delegated powers granted to

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<sup>1</sup> See document reference DA.037 in the Examination Library

officers at the meeting of the Joint Planning Policy Committee on the 29<sup>th</sup> January 2016. The MACs were published for formal consultation between the 26th January and 9th March 2017 with some 189 duly made responses received. All responses received were (in accordance with procedural requirements) forwarded to the Inspectors for consideration. Following consideration of these responses the Inspectors held a second round of 2 hearing sessions on 26th and 27th April 2017 covering focused topics, including Welsh Language, relationship between various housing policies, affordable housing, proposed Travellers site allocation (Anglesey) and Wylfa Newydd Project related policies.

12. Following this second round of Hearing Sessions, the Councils published the final schedule of Matters Arising Changes, which was published in the Examination Library and forwarded to the Inspectors for consideration in the formulation of their Report.

### **Inspector's Report**

13. The Councils received the Inspector's binding Report on 30 June 2017. The Report focuses on drawing clear conclusions, supported by the reasoned opinion. The Inspector explained at the Pre Hearing meeting that there was no requirement to report on each individual point raised in objections. Nonetheless, the Report summarises the case made by objectors when they are relevant to issues linked to the soundness of the Plan. The Report clearly explains why the Inspector, after weighing all of the evidence submitted by the Councils and by objectors, and on the basis of his views and his professional expertise, has come to certain conclusions about how the Plan meets the statutory requirements for its preparation and the tests of soundness.

14. The report is broadly divided into the following key parts:

- Introduction – outlining the purpose of the Examination; brief comments about the Examination and a brief explanation of the structure of the Report. The introduction also provides an overall conclusion which summarises the outcome of the Examination.
- Procedural requirements – summarises the plan preparation process and says how it has met the requirements of the Act and Regulations.
- Chapters based on topics which set out the main matters, setting out the Inspector's reasoning and conclusions – see paragraph 15 below.
- Overall conclusion - that the Plan is sound subject to changes.

15. The Report deals with the evidence presented by the Councils and by objectors grouped into nine specific themes, which includes: the Plan's Strategy, including the impact on the language (part 3); Housing provision and distribution (part 4); The provision of affordable, local market and other specific housing provision (part 5); Gypsy and Traveller accommodation (part 6), the economy and employment including retail and tourism (part 7); Minerals and waste (part 8); Climate change and renewable energy (part 9); The natural and built environment (part 10); and Infrastructure (part 11). The report discusses the monitoring framework, implementation and review of the Plan (part 12), which and has led to several changes in order to ensure a robust framework to monitor the Plan annually. In each section the issues raised by the relevant parties is summarised, stating why the Inspectors come to a conclusion about the need or not for Matters Arising Changes.

16. The binding Report concludes that, subject to the recommended changes set out in Appendix A and Appendix B to the Inspector's Report, the Anglesey and Gwynedd Joint Local

Development Plan 2011 – 2026 satisfies the requirements of section 64(5) of the 2004 Act and meets the procedural, consistency, appropriateness and effectiveness tests of soundness contained in paragraph 8.2.1 of the Local Development Plan Manual (2015). The Inspectors consider that the Councils have sufficient evidence to support the Plan's Strategy and has shown that it has a realistic prospect of being delivered.

17. The Inspector's Report, and a non-technical summary of it, is contained in Appendix 2 to this report. The Report contains a number of recommended binding changes in order to meet legal and statutory requirements and ensure that the Plan meets the Tests of Soundness. The changes include the Inspector's changes (identified with the prefix INMC) and those MACs supported by the Inspector. The Inspector also highlights some MACs which would improve the Plan's clarity, precision and presentation. None of the changes recommended by the Inspector in the report alter the thrust of the Councils' overall Strategy. Their implications in respect of the Sustainability Appraisal and Habitat Regulations Assessment have been assessed. The Inspector acknowledges that the Councils have undertaken and publicised an Equalities Impact Assessment of the Plan in order to ensure that it promotes equal opportunities and diversity and that it doesn't have a harmful effect on anyone protected under the 2010 Equalities Act or discriminates against them.
18. As the Plan was submitted for Examination before April 2016 it didn't have to directly comply with wellbeing objectives set out in the Future Generations Wellbeing Act. However, the Inspector has considered the updated legislative framework and ways of operating outlined in part 5 of the Future Generations Wellbeing Act. The Councils have also demonstrated that the Plan conforms to the identified wellbeing objectives. In the Inspector's opinion, the Plan will, as amended, contribute to economic, social, environmental and cultural wellbeing in Wales and, within this context, he is satisfied that it conforms with the overarching principle of achieving sustainable development.
19. The Report is a material planning consideration for development management purposes and therefore its recommendations will be applied in assessing planning applications from the date of its receipt. The Councils are required to incorporate the binding Changes set out in the Inspector's Report into the Plan.
20. The Local Development Plan Regulations place a duty on the Councils to adopt the Plan within 8 weeks of receipt of the Inspector's Report. In accordance with Regulations, the Inspector's Report has been placed in the public domain with participants, consultees, and other interested parties involved in the Plan process informed accordingly. The Inspector's Report will be available for inspection at the Councils' main offices, the Joint Planning Policy Unit's offices in Bangor, all local public libraries and is available on the Councils' websites.
21. A composite "tracked" changes version is available as a background document to this report. A composite clean version of the Plan, incorporating the changes recommended and endorsed by the Inspectors, are contained in Appendix 3 to this report. The latter also includes the consequential changes required in terms of policy and paragraph numbering.

#### **What are the statutory requirements?**

22. As highlighted above, the Councils are required by statutory regulations to adopt the Plan, as amended by the Inspectors binding report, by a resolution of Council. This must be carried out within 8 weeks of receipt of the final Inspector's Report (which was received on 30 June

2017). The Plan will become operative on the date it is adopted by the individual Councils. This means that they will have an up-to-date set of policies to facilitate provision of new development required to meet their local communities' needs and enable the Councils to deliver their housing and economic development strategies.

23. The Councils cannot reject the Inspector's recommendations and amend the Plan. The Councils cannot agree to adopt parts of the Plan. The Council's decision is limited to adopting the Plan or not adopting the Plan.

### **What if the Council decides not to adopt the Plan?**

24. The Planning and Compulsory Purchase Act (2004) requires all local planning authorities to prepare and keep under review a Plan for their individual areas. If the Councils do not adopt the Plan they would fail to comply with this requirement. If they decide not to adopt this Plan they will have to prepare a new plan in order to conform to the statutory requirement to have a local development plan for the area. This means starting the Plan preparation process once again, including undertaking the Sustainability Appraisal and Strategic Environmental Assessment and Habitat Regulations Assessment. They cannot miss any statutory steps (described in paragraphs 2 and 5 above). Failure to undertake a statutory step would put them at risk of legal challenges, complaints and potential costs against them.
25. A decision not to adopt the Plan would therefore mean that there wouldn't be an up-to-date development plan for the Council's area. Therefore, they would have to rely on the dated development plans referred to in paragraph 4 for five to six years.
26. The scenario of not adopting the Plan has potential significant social, economic and financial risks for the Councils. These risks are linked to the purpose of local development plans and the statutory requirement to have an up-to-date plan, as well as the statutory process that needs to be adhered to in order to prepare a plan (which commonly takes 5 to 6 years to complete).
27. The Plan's purpose is to provide a policy framework that facilitates various development that meets the area's social, economic and environmental needs during a 15 years period. The adopted Plan would guide appropriate development to appropriate locations. If there isn't an up-to-date adopted Plan it will be difficult for the Councils to prevent development, like housing, from being located in locations that could have significant social and cultural impacts on communities.
28. Councils must ensure that sufficient land is available or can be made available in the future to provide a 5 years supply of land for housing. Housing Land Availability Studies are the method required to demonstrate whether or not Councils have a 5 years supply of land. The results of the Study will have to be recorded in the Annual Monitoring Reports that cover local development plans.
29. In order to use the formula that Welsh Government require Councils to use to measure the availability of land for housing an adopted local development plan or an up-to-date adopted

unitary development plan is required. At the moment, neither Council has an up-to-date development plan in terms of measuring the supply of land for housing. Therefore, technically, they do not have a supply of land for housing. There are real risks associated with this. The relevant housing supply policies in the existing plans are fragile because Planning Policy Wales clearly states that there is a presumption in favour of sustainable development if Local Planning Authorities can not demonstrate a 5 years supply of land for housing. Planning Policy Wales also expect Councils to promote an additional supply of new housing. This means that consent should be given unless any adverse effects of doing so would significantly and clearly outweigh the benefits of having more housing units in the area. This means that there is a possibility of seeing open market housing developments getting consent on sites that are not inside the current development boundaries or the boundaries in the local development plan.. There are many examples across England and Wales in which sustainable development has been given permission contrary to the development boundaries, landscape value, employment use, affordable housing policies etc. There are a significant number of examples of appeals, with more decisions emerging each month, all of which affirm where an authority fails to show a 5 year supply of land for housing that their housing supply policies have dated. Because of this scenario the Councils would not be able to give an assurance beforehand to communities about the location of housing development and more and more of the decisions would be made by the Planning Inspectorate or the Minister as a result of planning appeals.

30. A decision not to adopt the Local Development Plan would mean the above risk would exist for up to 5 to 6 years, i.e. the period required to prepare a new local development plan.
31. The cost of preparing the Joint Local Development Plan has amounted to £1,042, 678 (excluding staff costs for 5 to 6 years). This cost is associated with undertaking the various assessments, ensuring the Plan is underpinned by a robust evidence base, undertaking a series of public consultation and engagement exercises, as well as a Public Examination. Therefore, a decision not to adopt the Plan coupled with the statutory requirement to have a new/ alternative local development plan would therefore have a direct financial impact of over £500,000 for each of the Authorities (which is an estimate of the cost of preparing another joint plan). It is emphasised that this is an estimate of the joint costs and that the cost of preparing a plan for one of the Councils by itself could be in the region of £1,000,000.
32. If the Councils do not adopt the Plan, the Welsh Government does have significant powers to intervene and approve the Plan on the Councils' behalf if it considers this appropriate and to charge the Council for any expenditure incurred in so doing.

### **Additional requirements**

33. In accordance with the Local Development Plan Regulations, when a Council adopts its Plan, it is required to produce and publish an Adoption Statement, which also incorporates a statement relating to the SA/SEA. This document is attached as Appendix 4 to this report.
34. The final SA/SEA is also required to be published alongside the Adopted Plan. The final SA/SEA Report has been updated to take account of the Inspector's recommended changes and a Non- Technical Summary is included in Appendix 5 to this report.

### **Next steps**

35. Subject to a resolution from the Councils to formally adopt the Plan, and in accordance with the Local Development Plan Regulations, notification of the Adopted Plan and its supporting documentation will be published by means of a statutory notice and advertisement in the local press. Notification and/or documentation will also be sent to interested parties, stakeholders and consultees who have been involved in, or requested to be kept informed of the plan preparation process. The Adopted Plan and supporting documentation will also be made available at the Councils' main offices and on the Councils' websites. The Plan is then subject to a six week challenge period to the High Court provided by section 113 of the 2004 Planning and Compulsory Purchase Act.
36. Upon adoption, the Plan will become the statutory development plan for Anglesey and the Gwynedd Local Planning Authority area. All existing adopted development plans and other documents identified in paragraph 5 will be cancelled.
37. Member briefings will be arranged as soon as possible to outline the main policies and provisions of the Plan
38. Following adoption, the Councils have a statutory requirement to prepare and submit an Annual Monitoring Report (AMR) on the Plan to the Welsh Government. This AMR will examine whether the Plan's policies are being properly implemented, land-use allocations are being delivered, and whether any policies need to be reviewed. The Council will be required to undertake a full review of the Plan 4 years after adoption.
39. The Council has a number of Supplementary Planning Guidance (SPGs) which were prepared to supplement the policies contained in previous adopted plans listed in paragraph 4. In order to ensure conformity with the Plan's policies, a review of these will be carried out as soon as is practicable following adoption of the Plan to assess which of these can continue be used in development management decisions pending preparation of new SPGs to supplement the Plan's policies. An indicative programme of SPGs to support and amplify the policies in the Plan is included in Appendix 9 of the Plan. All SPG will be subject to public consultation and Council approval. Additional SPGs may also be prepared during the Plan period as and when required following adoption of the Plan.

## **RECOMMENDATION**

- i. That the Committee formally accepts the Inspector's Report and notes its contents**
- ii. That the Committee agrees that the process up to the adoption stage has been completed**
- iii. That the Committee notes the matters and options and the required related documents**

## **Appendix**

- 1 Members role in the process
- 2 Inspector's Report
- 3 Joint Local Development Plan incorporating the Inspector's changes
- 4 Draft Adoption Statement
- 5 Non-Technical Summary of the final Sustainability Appraisal Report

## **Background document**

Joint Local Development Plan (proposed changes shown)