

Anglesey and Gwynedd Joint Local Development Plan Towards Adoption

Introduction

1. Cynllunio Iwan Evans has been commissioned by the Anglesey and Gwynedd Joint Planning Policy Unit (JPPU) to prepare a report to the Joint Local Development Plan Panel on the current position of the Joint Local Development Plan (JLDP) and how it can proceed through the next stages to adoption. Iwan Evans has over thirty years of experience in planning and was previously Head of Planning Policy at Flintshire County Council and Head of Planning and Transportation in Gwynedd Council. Since establishing his own consultancy in 2007, he has advised several local authorities in North Wales on planning policy matters and has represented Denbighshire County Council and Snowdonia National Park at Local Development Plan Examinations in Public. He continues to support Snowdonia National Park on planning policy issues and to advise local planning authorities.

Local Development Plan Preparation Process

2. The process of preparing and finally adopting a Local Development Plan is governed principally by “The Town and Country Planning (Local Development Plan) (Wales) Regulation 2005. Further explanation has been prepared by the Welsh Government in the documents “Local Development Plan Wales” (2005) and the “Local Development Plan Manual” (2006). The preparation is “process” driven and must be underpinned by a rigorous evidence base which supports a Plan’s strategy, objectives and policies. Critically a Plan must pass ten soundness tests which are based on ;
 - Procedure
 - Consistency
 - Coherence and Effectiveness
3. An examining Inspector will initially take the viewpoint that a submitted plan for examination is “sound” and that the local planning authority (LPA) has the necessary evidence to back the claim of soundness. As a consequence the Inspector will presume the plan is correct and any representations will need sufficient evidence to disclaim this assumption during the Examination. If no, or inadequate evidence is submitted by objectors an Inspector will default to the local authority position of soundness. This will also apply to allocated sites i.e. an Inspector will not investigate the merits of additional development sites in any detail if the overall growth strategy is acceptable and there are sufficient “deliverable” sites to meet acceptable growth targets. The purpose in outlining the above, in rather simplistic terms, is to emphasise the relative strong

APPENDIX D

position of a LPA which has a logical LDP linked to a robust evidence base, and which is deemed, by them, to be sound.

4. The JLDP has now reached a critical stage in its preparation process following consultation on the Deposit Plan. The author understands that the Panel during its last meeting was keen to understand the requirements of legislation and guidance at this critical stage before recommendations are made to an Inspector about the merits of representations. It is therefore timely to pause and reflect on the current state of play before moving forward to the final stages. The main stages of preparing an LDP are;
 - Evidence Gathering and Objectives
 - Vision Strategic Options and Preferred Strategy (pre-deposit)
 - Deposit Plan
 - Submission of a Plan for Examination and Adoption
5. Incorporated in to the above, and tested at the various stages is the Sustainability Appraisal (SA). After initial scoping work the SA is completed for the Preferred Strategy stage and updated for the Deposit Plan. The initial evidence gathering stage involves informal consultation with specific stakeholders and the next two stages (preferred strategy and deposit) involve formal six week consultation period with the public and interested parties.
6. It is not the purpose of this report to critically analyse the content and the representations received on the JLDP. The author is familiar with the plan and with some of the representations received but no detailed analysis has been undertaken of the background evidence against the representations received. Like an Inspector, it is presumed that the JLDP is sound unless proven otherwise by further evidence. This report is more concerned with outlining the procedures carried out to date and what procedural risks may lie ahead.
7. In the case of the JLDP two main consultation documents were prepared for the pre-deposit stage. "Developing the Vision and Strategic Options" and the "Preferred Strategy Document". The latter included the overall vision and strategic objectives and growth option for the plan. It was prepared following engagement with the Key Stakeholder Group and engagement with the public and interested parties. There have also been several assessments prepared such as an Equality Impact Assessment and an iterative Welsh Language Impact Assessment in addition to the various Background Topic Papers. To the author's knowledge members have had an opportunity to scrutinise and challenge the evidence included in these documents (as Panel Members, individual Members, or topic specific working groups). These Assessments and Background Topic Papers have in turn influenced the content of the JLDP.

APPENDIX D

8. The Deposit Plan is the culmination of the previous plan preparation stages and by this stage the LPAs should be confident that the Plan is sound and they have sufficient background evidence to support this assertion (otherwise the plan should not have been placed on deposit in the first place). There are however examples of other LDP's in Wales which have progressed to Examination stage which were evidently not sound and these are discussed later in the report.
9. From an analysis of the procedures undertaken to date, discussion with officers and a cursory examination of the background information there are no reasons to suggest that the proper procedures have not been carried out on the JLDP.

Next Steps

10. The JLDP has now reached the deposit stage and representations on the deposited plan are being considered. Representations on the plan must indicate which tests of soundness have failed and in order to do this they should have some evidence to back the claim. An Inspector will not pay much regard to an objection purely on its face value. Objectors can suggest changes to the plan which must also not undermine the Sustainability Appraisal. Before submitting the Plan for examination the Councils will need to indicate, in the consultation database whether it agrees or disagrees with a representation or what compromise might be available. Any fundamental objections by statutory consultees which cannot be resolved and which go to the heart of a Plan will ring alarm bells regarding the soundness of a plan. This would be a good point to explain the types of changes that may arise as result of the deposit representations (see Appendix A for examples of minor and focussed changes from the Conwy LDP).
 - **Minor change** - a small change as a result of a drafting error or factual inaccuracy which has no bearing on a Plan's content and meaning.
 - **Focussed Change** – usually changes which improve the wording of policies and explanatory text as a result of representations, a change in local circumstances or government policy. Such changes on their own, or in combination with others, should not undermine the plan's strategy, objectives or undermine its soundness. An LPA has the option of making focussed changes and must include them in an addendum to the Deposit Plan at the submission stage. There is no statutory requirement to consult on these, but some LPAs have done so before the start of the hearing sessions at the Examination
 - **Fundamental Change** – a more drastic change which may require further evidence gathering and result in a need for a shift in strategy and objectives or the need for less or more allocated sites. Such changes go to the heart of a plan and have consequential impacts on

APPENDIX D

several objectives and policies. If an LPA considers such changes are required they should not proceed to submission and will need to consult again on the deposit or even go back to the pre-deposit stage.

11. It is purely a matter for the LPA whether to make changes at this point or not. Unless there is an obvious need to make changes they should be avoided and any fundamental change, as explained above, will necessitate a complete re-think. If representations highlight concerns regarding evidence it may be prudent to re-inforce the information base, provided any new evidence does not undermine the existing plan i.e. the Plan content matches the evidence base. If however there has been proper engagement with stakeholders and statutory consultees there should be no shocks from the representations received at the deposit stage. If there are differences of opinion a good way forward is to establish areas of "common ground" with objectors before moving forward to an examination. Statements of Common Ground will assist in clarifying specific points of disagreements which an Inspector can seek to resolve.
12. Of critical importance are the comments received from the Welsh Government (WG). Throughout the process of preparing the Plan officers of the JPPU will have had formal and informal comments from officers of the WG. The comments on the deposit by the WG are good guide as to the soundness of a plan, although they cannot be totally relied upon, nor should they be to prove soundness. The author has reviewed the comments received from the WG on the JLDP and there are no fundamental representations made by them which pose a significant risk to moving the plan forward to the submission phase. It is important to keep the WG on board as they can and will assist during the Examination. Having said the above there are a number of issues raised by the WG which should be addressed by the JPPU before submission.

Submission and Examination

13. There are numerous documents which must be submitted to the Inspectorate and the WG for the Examination process to begin, - the most important being the Deposited Plan, Background Papers, representations received, proposed focussed changes (if any) and any new information which does not change the soundness of the Plan. The LPA should suggest a list of main issues for consideration at an examination and the suggested procedure for dealing with them. An independent Inspector will be appointed to undertake the Examination. The Inspector will take on board the main issues raised by the LPA and if deemed necessary will add others to the list. If the Inspector is concerned about the soundness of the Plan or does not understand certain issues an Exploratory Meeting will be arranged with interested parties but primarily with the LPA. Certain plans have not proceeded beyond an Explanatory Meeting because of

APPENDIX D

fundamental concerns by the Inspector and have been subsequently withdrawn.

14. If there are no fundamental concerns following a pre-Inquiry meeting, the Examination Hearings will start and consist of a series of several hearings based on topics chosen by the Inspector (and based on the main issues outlined in paragraph 13). Typical Hearing Sessions discuss the overall Strategy, Housing Growth Targets, Affordable Housing and Strategic Allocated Sites. In some Examinations the Inspector has adjourned the Hearings in order for more information to be collated or for certain changes to be advertised (provided this takes no longer than six months). As stated previously the Inspector will presume the Plan is sound therefore it is important for the LPA in any Examination submissions to clearly link the background evidence with the Plan itself. Due to the plethora of information some important issues can be lost or not emphasised sufficiently. The Inspector will not seek to improve the Plan if it is basically sound. For example he or she should not be concerned with minor improvements to policy wording or further explanatory additions unless absolutely necessary or part of a focussed change proposed by the LPA. Likewise an Inspector will not investigate additional housing allocations in detail if sufficient supply already exists. During the Examination the Inspector and LPA may agree to certain “focussed” changes and these in due course will need to be advertised for comments. In this regard officers will need a fair degree of delegated authority otherwise the whole process will be delayed and costs increased.
15. The Inspector will finally produce a report with recommended changes to the Plan which are binding on the LPA.

Examples from other LDP Examinations

16. The following examples give some insight of difficulties that have occurred with LDP’s after submission for Examination and serve as examples of issues that could involve fundamental changes to a Plan. The first example is on the original Cardiff Local Development Plan. Following submission this Plan was withdrawn in March 2010 following an Exploratory Meeting because of serious concerns from the Inspector. His main concern revolved around the plan’s intention to provide all new housing on brownfield or windfall sites for the delivery of some 27,442 new dwellings. The only remedy in this case was to re-visit the strategy and allocate some greenfield sites to provide choice and some flexibility in meeting the housing forecast figure. This is an obvious example where the Plan was fundamentally unsound and should not have proceeded to Examination.
17. The second example is the Wrexham Local Development Plan which did progress to the start of the Examination in 2012 but which was stopped

APPENDIX D

after the first week of Hearings for the following fundamental concerns from the Inspector. They were;

- Shortfall in the supply of housing
 - No appropriate supply of affordable housing
 - No suitable provision for the gypsy and traveller community
 - Failure of the Plan to respond to its own evidence base
 - The cumulative changes required could not be undertaken quickly enough to secure a sound plan.
18. Most of the problems found in LDP's concern housing issues normally a defective housing target (too low) or an inadequate supply of land to meet the target. This then results too low a figure for affordable houses to meet the identified need. Many LPA's also run in to problems with inadequate provision of sites for gypsies and travellers – the number of sites must match the identified need. The Conwy LDP Examination was adjourned to obtain further information on gypsy and traveller need. Likewise the Denbighshire Examination was delayed in order to allocate additional housing sites to provide greater flexibility and certainty of supply.

Conclusions

19. Fundamental changes to the JLDP resulting from evidence based representations, or changes in circumstances should only be made if the existing deposit plan is unsound. Otherwise, the Plan should proceed to submission and adoption. The joint authorities may wish to strengthen its evidence but needs to be careful this does not undermine the logic of the existing Plan. No Plan is perfect and because of the many variables it must consider, there is an element of compromise in balancing some competing difficult issues. It is likely that many representations will seek some fundamental changes but these must be judged against the evidence submitted compared to the evidence that underpins the Deposit Plan and their overall impact on the JLDP. There would be no point in making a sound plan unsound.

APPENDIX A – Examples of minor and focussed changes

Example 1 -Extract from Conwy Council's Focussed Changes Document 2012 – the minor editorial changes are strike through deletions in yellow or additional minor wording shown in red.

SECTION ONE - INTRODUCTION					
Focussed Change Ref. No.	Section/Heading	LDP Page No.	Policy	Change Proposed	Justification
				<p>I would like to thank all those who have contributed to the development of this Plan and hope it provides the basis for the provision of new development in Conwy to address the needs of the local communities in a sustainable and locally distinctive manner.</p> <p>Councillor Dilwyn Roberts Leader of the Council</p>	
IN003	footnote	All pages		Conwy Deposit Local Development Plan 2007 – 2022 (Revised edition 2014)	Amended to reflect progress in the LDP process
IN004	1.1.1	11		<p>The Conwy Local Development Plan (LDP) covers that part of the Conwy County Borough that is outside the Snowdonia National Park (known as the Plan Area). The Plan Area is rich in historic assets, has a buoyant tourism industry, excellent transport links, good water and air quality and a high quality natural environment (including coast and countryside and National Park). However, population and household projections have demonstrated that the population of the Plan Area could increase by as much as 7,850 people by 2022. The main characteristics of this population change and associated concerns are:</p> <ul style="list-style-type: none"> • The number of people within the 18-64 age group is declining resulting in a reduction in those of economically active age at the detriment to the economic performance of the County Borough; • The number of people aged 65+ is increasing significantly resulting in increased pressure on social care, health facilities and services at the detriment to economic performance; • The number of children is projected to decrease significantly at the detriment to future economic performance, school pupil levels and community identity; <p>- The number of people living together in households is projected to</p>	Minor editorial change

APPENDIX A – Examples of minor and focussed changes

Example 2 – Extract from Conwy Council’s Focussed Changes Document 2012

An example of more substantial additional wording which adds further factual clarification but does not change the direction or soundness of the Plan – it is therefore a focussed change.

Focussed Change Ref. No.	Section/Heading	LDP Page No.	Policy	Change Proposed	Justification
IN035	New paragraph			<p>Repetition of National Guidance</p> <p>In accordance with guidance contained in LDP Wales, LDPs should have regard to national planning policies, but they should not repeat them. The LDP should, therefore, be considered in connection with the Planning Policy Wales Comparison Guide, which identifies those areas where clear statements of national development control policy should not need to be repeated as local policies in the LDP. It should be noted, therefore, that the LDP only provides the policy framework for issues of locally distinct nature. However, to avoid over repetition of national guidance throughout the LDP and take into account changing circumstances in national policy, a ‘capture all’ Policy is formed within the Conwy LDP. Development proposals that do not present specific locally distinct issues will be assessed in accordance with the requirements of the LDP Policy DP6 – ‘National Planning Policy and Guidance’.</p>	Additional wording to provide clarification
IN036	New paragraph			<p>The Wales Spatial Plan</p> <p>The Wales Spatial Plan (WSP), approved by the Welsh Government in 2004 and updated in 2008, provides a broad strategic framework for development and other plans, in particular, the Conwy LDP. The Planning and Compulsory Purchase Act 2004 and accompanying regulations require that the Conwy LDP must have regard to the WSP. The WSP is divided into six cross-boundary Spatial Plan Areas (SPAs). The Conwy Plan Area falls mainly within the North East Wales – Border and Coast SPA and is seen as making a very important contribution to both the Welsh and UK economy. The future prosperity of the Area is closely linked with that of North West England SPA as well as the neighbouring SPA of North West Wales and Central Wales. In realising the vision for the WSP there are a number of key elements set out in each of the strategic areas that have influenced the direction of the strategy and policies set out in this Conwy LDP.</p> <p>1. Building Sustainable Communities: Location of Growth</p> <ul style="list-style-type: none"> * Strategic Hubs: Strengthening key hubs as a focus for 	Additional wording to provide clarification

APPENDIX A – Examples of minor and focussed changes

Example 3 – Extract from Conwy Council Focussed Changes 2012 - Indicates that housing site allocations have been changed where one new site at Llandudno Junction named “Woodland” has been added – it is therefore a focussed change.

		Woodland, Llandudno Junction	LDP Policy Change Ref.	P61074
Map	2	Change Proposal	Justification	
Site Reference	14	Amend settlement boundary	Boundary to be amended to include new allocation site.	