

# Vale of Glamorgan Council

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Agenda Item No. 7(c)

THE VALE OF GLAMORGAN COUNCIL

EXTRAORDINARY COUNCIL MEETING: 23<sup>rd</sup> JANUARY, 2013.

REFERENCE FROM CABINET: 14<sup>TH</sup> JANUARY, 2013.

## **C1959 VALE OF GLAMORGAN LOCAL DEVELOPMENT PLAN 2011 TO 2026: WAY FORWARD AND REVISED DELIVERY AGREEMENT - (SCRUTINY COMMITTEE) - ECONOMY AND ENVIRONMENT - 4TH DECEMBER, 2012 AND PLANNING COMMITTEE - 20TH DECEMBER, 2012 (REF) -**

The Scrutiny Committee (Economy and Environment) on 4<sup>th</sup> December, 2012 and the Planning Committee on the 20<sup>th</sup> December, 2012 considered the above report.

### **Economy and Environment 4<sup>th</sup> December 2012**

Following introductions by all present, the Chairman stated that he considered that it would not be helpful to spend a great deal of time discussing specific issues in relation to the previous Deposit Plan on 25<sup>th</sup> January 2012 as that Plan was no longer relevant. It was also important not to speculate at this stage on aspects such as the number of houses and specific areas as the information was not yet available. The purpose of the report before the Committee was to consider the options available to the Council in producing a sound and sustainable Local Development Plan (LDP) for the Vale of Glamorgan. The Cabinet had considered the matter at its meeting on 19<sup>th</sup> November and referred the report to the Scrutiny Committee for comment. Members were reminded that the work on producing the LDP for the Vale of Glamorgan had been underway for some six years and that the LDP had passed through several stages. The first stage had been to prepare a Delivery Agreement made up of a timetable for the production of the Plan and a Community Involvement Scheme. The second stage was to prepare a vision and in January 2007 the Council had agreed to adopt the vision contained within the Vale of Glamorgan's Community Strategy 2003-13. Between December 2006 and January 2007 all those with an interest in the LDP had been invited to submit "candidate sites" for potential inclusion in the LDP which had been included in a register. Stage 3 of the process had involved developing and consulting on a Draft Preferred Strategy for the LDP. This had been subject to a statutory six week public consultation during early 2008 with the Strategy endorsed as the basis for preparing the Deposit LDP during early 2009. The Council was at Stage 5 of the LDP process having produced a Deposit LDP, with consultation on the same, being undertaken between 20<sup>th</sup> February and 2<sup>nd</sup> April 2012.

Members were advised that the consultation had resulted in approximately 1,600 respondents and over 1,500 representations in respect of the various proposals in the Plan. Of the representations, circa 4,700 were objections with 220 expressing support and over 210 offering comments. The report detailed the various options open to the Council in producing an LDP and having reviewed the situation and having regard to legislation, the three possible options in progressing an LDP for the Vale of Glamorgan, were reported as follows:

#### **Option 1 – Continue with the current Deposit LDP**

National Policy indicated that Local Planning Authorities could make changes to the Deposit LDP following public consultation on it and the Alternative Sites consultation (the next stage). However, these changes should not impact on the overall LDP Strategy and the advice was that such changes should go forward with the submitted Plan for examination rather than supplant it. The Council had to also explain why any changes were being put forward and what new evidence there was for each change since the agreement of the Deposit Plan in early 2012. The introduction of changes should be subject to the same process of publicity as the Deposit LDP to allow interested parties to comment on those changes. The Council would need to carefully consider the impact of the changes on the soundness of the LDP, taking account of its overall consistency and its Strategy as well as of the Sustainability Appraisal. The guidance on LDPs recommended that any changes at this stage were evidenced by sound reasons for making those changes.

#### **Option 2 – Start the entire process again, including a reconsideration of strategic options**

Section 66 of the Planning and Compulsory Purchase Act 2004 allowed the Council to withdraw the LDP at any time before it was submitted to Welsh Government and the Planning Inspectorate for independent examination. After the Plan was withdrawn, Regulation 26 of the Town and Country Planning Local Development Plan (Wales) Regulations 2005 required the Council to advertise this fact and remove all documents made available for inspection.

#### **Option 3 – Cease work on the Deposit LDP as approved in January 2012 and commence work on a**

## replacement Deposit Local Development Plan

As a result of discussions with Welsh Government, it had been confirmed that it was possible to produce a replacement Deposit Local Development Plan and consult on it. The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 did not cover this option of issuing a second Deposit LDP as the regulations were written on the assumption or understanding that the LDP continued to progress to the next stage in the process (see Option 1 above) unless the LDP was withdrawn (see Option 2 above)'.

The Director advised that normally the next stage of the LDP process would be to consult on alternative development sites which had been submitted as part of the Deposit Plan. However, there had been concerns that the Deposit LDP had failed to meet the expectations of Welsh Government and the concerns were detailed as follows:

- Minerals - this was regarded by Welsh Government as making the Plan potentially unsound (a Category A objection)
- Infrastructure and the need for the LDP to secure the necessary infrastructure to support growth. This concern had also been raised in a significant number of representations and was a concern that had been acknowledged.
- Other issues that needed to be considered included reference to the spatial distribution of housing, the deliverability of growth and employment as well as some site specific issues relating to certain allocations.

The Welsh Government had also referred to the fact that it was imperative "that the Council secured the infrastructure necessary to facilitate the development proposed in the Local Development Plan".

The changes to be made to the Deposit Plan as a result of the representations received and the recommendations of the Welsh Government, the Director stated, went beyond what was considered the process allowed the Council to do at this stage. Given the concern expressed on the Deposit LDP as approved in January 2012, it was considered that any changes required would go well beyond what could reasonably be considered to be focused or minimal. Even if the Council was to produce focused changes, there would be no guarantee that the changes would be accepted by an inspector because they would be submitted with the Deposit Plan for his / her consideration at examination. It would be up to the inspector to decide whether to incorporate the changes into the Final Adopted LDP and not the Council.

At the Cabinet meeting on 19<sup>th</sup> November 2012 a letter had been received that day from the Welsh Government that had been tabled which referred to the disappointment that the recommendation had been not to progress the current LDP Plan to submission. The Chief Planner had also requested that all the implications of not progressing the current Deposit Plan be considered carefully when the Cabinet discussed a way forward on the Plan. A Member in noting that the letter had only recently been received requested that in future reports to Committees and / or Council the contents of both letters of 30<sup>th</sup> March 2012 and 19<sup>th</sup> November 2012 be included in order that a balanced view was relayed.

Councillor Burnett (Cabinet Member) emphasised that the document was an important statutory document which determined the allocation of various land uses and, as such, it was essential that the Final Adopted LDP contained the right mix of development for the Vale of Glamorgan that was fully supported by the necessary infrastructure. Cabinet had also been advised of a new issue, air quality within the Vale of Glamorgan, which needed to be taken into account. The Director informed the Committee that it had been considered to be the most appropriate option to replace the Deposit LDP with a new version which would allow the Department to build on previous work and to relook at the candidate sites consultation that had been undertaken. Although advising that the new preferred way was not without risk, to produce a replacement Deposit LDP was considered to be the most appropriate and reasonable option for the Vale of Glamorgan.

Following the presentation of the report, the Chairman then introduced Mr. Dennis Harkus who had requested permission to speak to the Committee. Mr. Harkus stated that he supported a new LDP and that in his opinion, the existing strategy could not be the starting point. He stated that he had also been campaigning on the consequences of the strategy on the infrastructure for over four years. He referred to the Barry stakeholders' meeting where he considered that there had been an under-representation of stakeholders. In again referring to the infrastructure he stated that 12 junctions to date on the Vale roads were forecast to exceed capacity and reiterated the potential problems that a further 9,000 homes could bring. He also considered that there had been little thought to the Severn Barrage as, in his opinion, a Severn Barrage would have a massive impact on the Vale with huge consequences on housing and provision.

In response to issues raised during the debate, the Director advised that the soundness of the LDP was a matter for the inspector. The strategy would have to be backed by firm evidence and had to sit within planning policy as indicated by the Welsh Government. The strategy focused on the Enterprise Zone business park and the Council was aware that the First Minister had set up a task group to look at issues affecting the airport. There was also currently no permission in place for the Severn Barrage and the LDP could not take into account things that did not exist. With regard to the infrastructure, this was a valid issue which had been raised throughout the consultation of the previous LDP and would be addressed in the new Draft LDP.

In referring to a Member's comment as to whether the Welsh Government sought information to reduce the number of houses in the LDP, the Director advised that such a discussion had not taken place.

In also referring to page 3 of the report the concerns of residents was raised in that there had been little road planning considered in the Deposit LDP. The Cabinet Member advised that infrastructure included other issues for example schools,

hospitals, etc. and that it was important to ensure that they were in the right place to support the communities.

Following discussion on the consultation process for the "new" Draft LDP as detailed within the report, the Director advised that it was too early to confirm where the sessions would be held but that engagement with local communities would take place and comments taken on board.

Having considered the report, the representations and discussions at the meeting, it was

**RECOMMENDED – T H A T** the recommendations of Cabinet be endorsed.

Reason for recommendation

To progress the matter."

### **Planning Committee 20<sup>th</sup> December 2012**

Cabinet, on 19<sup>th</sup> November, 2012 received a report which considered options available to the Council in producing a sound and sustainable Local Development Plan (LDP) for the Vale of Glamorgan.

Work on producing the LDP for the Vale of Glamorgan had been underway for the last 6 years and had passed through several stages. The first stage was to prepare a Delivery Agreement, made up of a timetable for the production of the Plan and a Community Involvement Scheme. The second stage in producing a LDP was to prepare a Vision and in January 2007 the Council agreed to adopt the Vision contained within the Vale of Glamorgan's Community Strategy (2003-13). Between December 2006 and January 2007, all those with an interest in the LDP were invited to submit 'candidate sites' for potential inclusion in the LDP and these candidate sites had since been included in a register.

Stage 3 of the process involved developing and consulting on a Draft Preferred Strategy for the LDP, this was subject to a statutory 6 week public consultation during early 2008 and the Strategy was endorsed as the basis for preparing the Deposit LDP during early 2009.

The Council was at Stage 4 of the LDP process, having produced a Deposit LDP and consulted on the same between 20<sup>th</sup> February and 2<sup>nd</sup> April 2012, following the presentation of reports to Cabinet, Planning Committee, Economy and Environment Scrutiny Committee and Council during January 2012.

The report set out the various options open to the Council in producing a LDP. Having reviewed the situation and having regard to legislation, there was three possible options in terms of progressing a LDP for the Vale of Glamorgan.

These were:

#### **Option 1 – Continue with the current Deposit LDP**

National Policy indicates that Local Planning Authorities can make changes to the Deposit LDP following the public consultation on it and the Alternative Sites consultation (the next stage). However, these changes should not impact on the overall LDP Strategy and the advice is that such changes should go forward with the submitted Plan for examination rather than supplant it. The Council must explain why any changes are put forward and what new evidence there is for each change since the agreement of the Deposit Plan in early 2012. The introduction of changes should be subject to the same process of publicity as the Deposit LDP to allow interested parties to comment on those changes. The Council would need to carefully consider the impact of the changes on the soundness of the LDP, taking account of its overall consistency and its Strategy as well as of the Sustainability Appraisal. It was highly relevant therefore that the ability exist to make changes to the Plan, to add sites, delete sites, add new policies or change the wording of policies, provided that the changes do not result in a change to the Strategy. Whilst the Deposit Plan included policies and allocations that supported this Strategy, specific allocations and site specific policies could be looked at and where necessary be reviewed, provided the overall Strategy did not change. The guidance on LDPs recommended that any changes at this stage were evidenced by sound reasons for making those changes.

#### **Option 2 – Start the entire process again, including a reconsideration of strategic options**

Section 66 of the Planning and Compulsory Purchase Act 2004 allowed the Council to withdraw the LDP at any time before it was submitted to Welsh Government and the Planning Inspectorate for independent examination. After the Plan was withdrawn, Regulation 26 of the Town and Country Planning (Local Development Plan (Wales) Regulations 2005 required the Council to advertise this fact and remove all documents made available for inspection.

#### **Option 3 – Cease work on the Deposit LDP as approved in January 2012 and commence work on a replacement Deposit Local Development Plan.**

As a result of discussions with Welsh Government, it had been confirmed that it was possible to produce a replacement Deposit Local Development Plan and consult on it. The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 did not cover this option of issuing a second Deposit LDP as the regulations were written on the assumption or understanding that the LDP continued to progress to the next stage in the process (see Option 1) unless

the LDP was withdrawn (see Option 2)'.

The LDP's Preferred Strategy as put forward as a Draft in 2007 and consulted upon during early 2008 was sound and provided the basis from which to develop an Adopted LDP for the Council. It was clear that the legislation regards the Deposit Plan as a very important stage in the process and something that should flow from the earlier work of generating strategic options and selecting a Preferred Strategy. However, an analysis of the representations to the Deposit Plan had led to serious concerns as to whether the approach to implementing the strategy was sound.

The Welsh Government had expressed concerns and reservations about certain aspects of the Plan (letter attached at Appendix A to the report). One of these was in respect of Minerals and was regarded by them as making the Plan potentially unsound (a category A objection). The Welsh Government also had concerns relating to infrastructure and the need for the LDP to secure the necessary infrastructure to support growth. This was a concern that had also been raised in a significant number of representations, and was a concern that had been acknowledged. These concerns would need to be fully explored.

In addition, the Welsh Government had raised other concerns that needed to be considered, including reference to the spatial distribution of housing, deliverability of growth and employment as well as some site specific issues relating to certain allocations. It was essential that the Council secured the necessary infrastructure to facilitate the development proposed in the Local Development Plan. There was, as a consequence, a concern that the Deposit LDP as approved in January 2012 did not include sufficient detail on the level of infrastructure required to support growth. Representations indicated that there needed to be far more reference to the need to deliver transport improvements, across all modes to adequately mitigate new development as well as dealing with the issue of congestion in the eastern Vale of Glamorgan.

It was noteworthy, that leading on from the above, the Welsh Government in their representations referred to the fact that: "it was imperative that the Council secured the infrastructure necessary to deliver the development proposed in the Local Development Plan." The representations also referred to the fact that the Plan should include further explanation as to how the Community Infrastructure Levy (CIL) would relate to the LDP and vice versa. The need to progress work on a CIL was also reported to this Cabinet. Further information on how a consideration of the options available to the Council in producing a sustainable LDP impact on the Council's ability to progress a Community Infrastructure Levy was set out in paragraph 32 to the report.

The changes to be made to the Deposit Plan as a result of the representations received and the recommendations of the Welsh Government went beyond what was considered the process allowed the Council to do at this stage.

Given the concerns expressed on the Deposit LDP as approved in January 2012, it was considered that any changes required would go well beyond what could reasonably be considered to be 'focussed' or 'minimal'. Even if the Council was to produce "Focussed Changes" there would be no guarantee that the changes would be accepted by an Inspector because they would be submitted with the Deposit Plan for his/her consideration at examination. It would be up to the Inspector to decide whether to incorporate the Changes into the Final Adopted LDP and not the Council. It was considered that this was a significant key risk of such an approach.

The LDP is a very important statutory document that will determine the location of various land uses for the next 15 years. As a consequence it was imperative that the final Adopted LDP contained the right mix of development for the Vale of Glamorgan and that it was fully supported by the necessary infrastructure.

Various options had been considered and taking everything into account it was considered that the production of a replacement Deposit Plan (option 3) was the only option that would allow the delivery of appropriate development and associated infrastructure for the area. Accordingly, it was proposed that the Council commenced immediately on the production of a replacement Deposit Plan that would address and reflect the concerns of consultees as well as attempting to rectify the concerns raised by the Welsh Government on the Deposit LDP. A revised Delivery Agreement had been produced to reflect this position setting out a new timetable for the production of the replacement Deposit LDP and this was attached as Appendix B to the report.

It was possible that the Welsh Government might not approve the changes to the LDP Delivery Agreement and could decide to request that the Council continued with the Deposit Plan as it currently stood themselves. Should this occur Cabinet would be advised accordingly.

The Cabinet Member for Regeneration, Innovation, Planning and Transportation, Councillor Lis Burnett, clarified the following before going on to discuss the report:

The Appendices as mentioned in the report were the wrong way round and Appendix A should have been B and vice versa.

An amended version of the LDP timetable to that appended to the report was also circulated.

Councillor Burnett also tabled an additional late item, a letter from the Welsh Government that was received that morning

Councillor Burnett stated that after in depth consideration of all options available, the report recommended a way forward to produce a sustainable alternative Deposit Local Development Plan.

Councillor Burnett emphasised that this was an important statutory document which determined the location of various land uses until 2026. As such it was essential that the final Adopted LDP contained the right mix of development for the Vale of Glamorgan that was fully supported by the necessary infrastructure.

Normally, the next stage of the LDP process would be to consult on the "Alternative" development sites which had been submitted as part of the Deposit Plan statutory consultation process. However, whilst the LDP's Preferred Strategy of 2007 was sound, the representations to the Deposit Plan had led to a significant number of representations questioning the approach to implementing that strategy, which were acknowledged.

In particular, concerns related to the need for the necessary infrastructure to support growth.

Another significant issue that needed to be addressed in the LDP was that of Air Quality within the Vale of Glamorgan. (A later report at this meeting proposed the declaration of an Air Quality Management Area for part of Windsor Road, Penarth).

While minor changes could be made to the existing plan, given the way the regulations within which LDPs were produced, it was likely that in order to address the concerns expressed in the representations, the changes required would go well beyond what would be possible under the legislation. In addition, there would be no guarantee that changes would be accepted as it would be up to an independent Inspector to decide whether to incorporate the changes into the Final Adopted LDP and not the Council. This was considered to be a significant key risk.

Alternatively, the option of starting the entire process again, including a reconsideration of preferred options was considered. However, as the Preferred Strategy was considered sound, to come up with a different strategy would be a costly and a high-risk decision which would mean justifying why a current strategy that focused on national planning policy, sustainable transport, the location of regeneration opportunities and proximity to services was not appropriate.

A further concern with such an approach was that it would result in a substantial delay adopting a LDP and would lead to potential difficulties when assessing new planning applications and defending decisions at appeal. It was also a possibility that the Welsh Government could take over the completion of the LDP and impose that Plan on the Council. This again was a significant risk.

As a result of discussions with Welsh Government officials, it had been confirmed that it was possible to produce a replacement Deposit Local Development Plan and consult on it. On balance, this option was considered to be the most appropriate and reasonable for the Vale of Glamorgan. It meant that, subject to Council approval, work on the Deposit LDP, would not be progressed and that work would start on a replacement Deposit LDP.

Subject to the agreement of the revised timetable by the Welsh Government, it was anticipated that the replacement Deposit LDP would be published for statutory consultation in Autumn 2013.

One of the issues raised during consultation held in February to April, 2012 was the complexity of the process, and future consultation would be as accessible as possible and ensure the widest possible engagement. A series of update sessions would also be held in advance of carrying out the formal consultation exercise on the replacement Deposit LDP and details of these would be made available as work on a replacement plan progressed.

The report would be referred to the Economy and Environment Scrutiny on the 4<sup>th</sup> December and the Planning Committee on the 20<sup>th</sup> December before being reported back to Cabinet on the 7<sup>th</sup> January and presented to Council on the 23<sup>rd</sup> January 2013.

The Leader stated the report was balanced and gave options. He noted that the letter from the Welsh Government, circulated at the meeting, described "focused changes" as an opportunity to make subtle changes to the plan. His view was that the changes requested would be more significant than subtle would imply

Councillors Elmore, John and Brooks, expressed their support for this decision and that it was the best possible way forward.

Cabinet had resolved –

Subject to the comments from Economy and Environment Scrutiny Committee and the Planning Committee with a report back to Cabinet on 7<sup>th</sup> January, 2013:

(1) That Cabinet approve the report and make recommendations to a special Council meeting on the 23<sup>rd</sup> January 2013 as set out in (2) to (6) below.

(2) That on balance and further to the consideration of all three options as detailed in this report, the Deposit LDP as approved by Council on 25<sup>th</sup> January, 2012 and published for public consultation is not progressed and that work commences on a replacement Deposit LDP.

(3) That a further report is presented to Cabinet in due course in respect of the replacement Deposit LDP.

- (4) That the amendments to the LDP timetable contained within the Council's Delivery Agreement (June 2011) as proposed in the report be approved.
- (5) That approval be sought from the Welsh Government to formally amend the LDP timetable contained within the Council's current Delivery Agreement (June 2011).
- (6) That those individuals and organisations previously consulted on the drafting of the LDP Delivery Agreement be advised of the revisions to that Agreement.

Members expressed support for the contents of the report, and the wish that Planning Committee would be consulted as a stakeholder in the process.

The view was also expressed that the replacement Deposit LDP should consider any impact that a Severn Barrage would have on the Vale of Glamorgan.

Planning Committee

RESOLVED – T H A T the resolutions of Cabinet be noted.

Reason for decision

Having regard to the decision of Cabinet.

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This was a matter for decision by Council.

Cabinet, having considered the comments and recommendations of both the Scrutiny Committee (Economy and Environment) and the Planning Committee, reaffirm the following recommendations made by Cabinet on the 19<sup>th</sup> November 2012 to be presented for decision by Council at an Extraordinary meeting scheduled for the 23<sup>rd</sup> of January 2013.

RESOLVED –

- (1) T H A T on balance and further to the consideration of all three options as detailed in this report, the Deposit LDP as approved by Council on 23<sup>rd</sup> January, 2012 and published for public consultation is not progressed and that work commences on a replacement Deposit LDP.
- (2) T H A T a further report is presented to Cabinet in due course in respect of the replacement Deposit LDP.
- (3) T H A T the amendments to the LDP timetable contained within the Council's Delivery Agreement (June 2011) as proposed in the report be approved.
- (4) T H A T approval be sought from the Welsh Government to formally amend the LDP timetable contained within the Council's current Delivery Agreement (June 2011).
- (5) T H A T those individuals and organisations previously consulted on the drafting of the LDP Delivery Agreement be advised of the revisions to that Agreement.

Reasons for decisions

- (1-5) To progress matters in regards to the Local Development Plan.