

CYNGOR SIR POWYS COUNTY COUNCIL

Council

17th April 2018

REPORT AUTHOR: County Councillor Martin Weale
Portfolio Holder for Economy and Planning

SUBJECT: Powys Local Development Plan – Inspector’s Report
and adoption

REPORT FOR: Information and Recommendation to Council

1. Summary

1.1 To receive and consider the binding Inspector’s Report (Enclosures 1.1 – 1.12) into the Examination in Public of the Powys Local Development Plan (LDP).

1.2 To adopt and publish the Powys LDP 2011-2026 (Enclosures 2.1, 2.2 & 3.1-3.9), incorporating the changes recommended in the Inspector’s Report.

1.3 To approve and publish the Adoption Statement (Enclosure 4) and the final Assessment Reports for the Powys LDP (HRA, SEA, SA) (Enclosures 5.1 – 5.3).

1.4 To carry forward existing, relevant adopted UDP Supplementary Planning Guidance (SPG) (i.e. as material planning considerations) until superseded by SPG prepared to support the LDP.

(To save on printing costs, hyperlinks are included to several of the documents at the end of this report. Other documents are saved in X:\Members\Local Development Plan\Full Council\Full Council 17-4-2018).

Please see the end of this report for a list of all the documents enclosed.

2. Proposal

The adoption of the Powys LDP

2.1 The County Council has a statutory duty to prepare a Local Development Plan (LDP) for Powys (excluding the area of the Brecon Beacons National Park). This will set out the Council’s policies and proposals for development and the use of land for the period 2011-2026. On its adoption by the County Council the LDP will become operative and will be used as the basis for determining planning applications and will replace the adopted Powys Unitary Development Plan (2001-2016).

2.2 The process for preparing the LDP was set out in the LDP Delivery Agreement (revised in 2015). Work formally commenced on the LDP’s preparation in January 2011 and the steps and stages that have been followed are summarised in the Consultation Report (Enclosure 6).

2.3 The LDP was submitted to Welsh Government for Examination in Public in January 2016. An independent Planning Inspector was appointed who has considered the soundness of the LDP. The Inspector's Report (Enclosures 1.1-1.12) was received on the 15th March 2018, and was published on the Council's website and placed in the Council's four main offices and public libraries. All persons / parties who had previously expressed an interest in the Inspector's Report were notified of its availability.

2.4 Overall the Planning Inspector concluded that the Powys LDP, as amended by the Matters Arising Changes set out in the appendices to the report, was sound and provides an appropriate basis for the planning of the LDP area up to 2026. Appendix A of the Inspector's Report (Enclosures 1.3 – 1.11) sets out Matters Arising Changes prepared by the Council in response to the Examination's hearing sessions. Appendix B (Enclosure 1.12) to the Inspector's Report sets out additional binding changes proposed by the Planning Inspector:

- Deletion of the housing allocation in Llangynog.
- Amendments to policies on:
 - Development in Welsh Speaking Strongholds – this clarifies when and where a Welsh Language Impact Assessment is required.
 - Natural Environment – this removes references to Local Wildlife Sites and Sites of Interest for Nature Conservation.
 - Renewable Energy – this introduces a revised policy.
 - Safeguarding of Strategic Resources and Assets, Design and Resources – this removes the reference to Historic Assets of Special Local Interest.

2.5 The adoption process is prescribed by the legislation and regulations which require the local planning authority (Powys County Council) to adopt the LDP within eight weeks of the receipt of the Inspector's Report. The recommendations contained within the Inspector's Report are binding upon the Authority.

2.6 The LDP recommended for adoption by Council (Enclosures 2.1, 2.2 & 3.1-3.9) incorporates the binding recommendations of the Planning Inspector. Enclosures 2.1 (Cymraeg) and 2.2 (English) set out the LDP's written statement and include the overall plan strategy with a vision, objectives and strategic policies, and detailed policies and proposals for different types of development. Enclosures 3.1 – 3.9 set out the LDP's proposals and inset maps and identify site specific policies and proposals including the allocation of land for development. In order to address the Inspector's binding recommendations, consequential amendments have also been applied to the LDP.

2.7 In accordance with the regulations, on adoption the LDP must be published with an **Adoption Statement** (Enclosure 4).

2.8 In order to complete the three statutory assessments undertaken throughout the preparation of the LDP, the Inspector's recommended changes have been subjected to:

- a Habitats Regulations Assessment (HRA) (Enclosure 5.2); and
- a Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA) combined Addendum (Enclosure 5.3).

2.9 In order to comply with the requirements of the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004, the Council must as soon as reasonably practicable after adoption make a copy of the Environmental Report (SEA) available at its principal office. Enclosure 5.1 shows the structure of each of the final statutory Assessments including the final Environmental Report reflecting their evolution through the

plan-making process. The Council's approval of Enclosure 5.3 will enable the final Environmental Report to be compiled.

2.10 On adoption, the Council is required to send a copy of the Adoption Statement (Enclosure 4) to all persons who have asked to be notified of the adoption. Notice of adoption will also be given in the local press. A six week period for making a high court challenge will commence on adoption, as set out in the Adoption Statement.

Supplementary Planning Guidance

2.11 Included within the LDP is a commitment to prepare Supplementary Planning Guidance (SPG), or detailed planning policy guidance, for a number of policy areas. SPG, once approved, will be a material planning consideration that will need to be taken into account when determining planning applications. The SPGs have been programmed for preparation and completion at a rate of three every six months and the first three planned are for planning obligations, affordable housing and biodiversity.

2.12 Whilst the LDP's SPG are being prepared, it is recommended that the following approved UDP SPGs are carried forward (i.e. as material planning considerations) until superseded by the LDP's SPG:

- Affordable Housing for Local Needs SPG, 2010 and updated in 2011.
- Residential Design Guide, 2004.

In so doing, all other SPG / IDCG prepared to support the UDP will be withdrawn on adoption of the LDP because they are superseded by the LDP. The UDP SPG are located here: <http://www.powys.gov.uk/en/planning-building-control/apply-for-planning-permission/udp-supplementary-planning-guidance/>

3. Options Considered / Available

3.1 Preparation of the LDP is a statutory duty. The only options available are either to adopt or not to adopt the LDP. The recommendations within the Inspector's Report are binding so it is not an option to disregard or alter any of the Inspector's recommendations. On adoption, statutory monitoring of the LDP will be undertaken through an Annual Monitoring Report and this will ultimately inform a future review of the Plan. The LDP's evidence base must also be kept under review.

3.2 A decision to not adopt would leave the Council without an up to date development plan in place. The LDP is an evidence-based plan and has been prepared with input from all interested stakeholders, and scrutinised by an independent Planning Inspector. Without an adopted LDP the authority would for instance find itself unable to undertake a Joint Housing Land Availability Study to assess its housing land supply, which would lead to the potential for speculative housing development. If such a decision was to be taken, Welsh Government could apply its powers under Section 71 of the Planning and Compulsory Purchase Act 2004 which would allow it to pursue the adoption of the LDP and seek reimbursement of expenditure from the Authority.

4. Preferred Choice and Reasons

4.1 To adopt the Powys LDP and provide the Council with an up-to-date development plan which will form the basis for determining planning applications.

5. Impact Assessment

5.1 Is an impact assessment required? Yes

If yes is it attached?

Please see following link.

http://pstatic.powys.gov.uk/fileadmin/Docs/Planning/LDP/LDP_2015/LDP_Stages/2016_Further_Focussed_Changes/LDP_Integrated_Impact_Assessment_IA_October_2016.pdf

5.2 The LDP has been informed by various assessments during its preparation including an integrated impact assessment and those that are appended to this report. This has ensured that the plan has been prepared having regard to its impact on and ability to address matters and issues of sustainability, the environment, equalities, etc. Also, in examining the LDP, the Planning Inspector also found for instance that the LDP accorded with the overall principles of the Well-Being of Future Generations Act 2015 (paragraph 2.7, Inspector's Report, Enclosure 1.2).

6. Corporate Improvement Plan

6.1 The LDP will support the objectives of the Corporate Improvement Plan through its policies. For example, the corporate improvement plan's objective of "Developing the economy" is matched by similar objectives in the LDP and specific policies to support and enable the economy of Powys to develop.

6.2 In terms of risks, the Council must comply with the statutory adoption procedures. These also allow for a 6 week High Court Challenge period from the date of adoption where a person aggrieved with the LDP can question its validity on the grounds that it is not within the powers conferred by the legislation or that any procedural regulation has not been complied with.

7. Local Member(s)

7.1 The Powys LDP will directly affect all wards, either wholly or partly, located in Powys outside the Brecon Beacons National Park. Those Members with wards entirely within the National Park may be indirectly affected by the LDP's policies and proposals.

8. Other Front Line Services

8.1 Does the recommendation impact on other services run by the Council or on behalf of the Council? Yes

8.2 The LDP and its policies have the potential to impact on all service areas in a number of possible ways e.g. where services have a 'land use' requirement, or where service delivery is impacted on by the levels of development and growth planned.

9. Communications

9.1 Have Communications seen a copy of this report? Yes

Have they made a comment? If Yes insert here. None provided.

9.2 The adoption of the LDP will be communicated widely and must comply with regulatory requirements. The LDP website will be updated and all persons who have previously expressed an interest in the LDP adoption will be notified. Copies of the LDP and adoption documents will be placed in all the Council's four main offices and all libraries, a newspaper notice will be published and a press release issued.

10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

10.1 Legal - The Principal Solicitor (Planning) has commented as follows: the inspector appointed by Welsh Government has concluded that the LDP is “sound” subject to her amendments and as such the correct legal processes have been followed.

10.2 Finance – The Finance Business Partner is content to adopt the Powys LDP and provide the Council with an up-to-date development plan which will form the basis for determining planning applications in the future.

11. Scrutiny

11.1 Has this report been scrutinised? No

12. Statutory Officers

12.1 The Solicitor to the Council (Monitoring Officer) has commented as follows: “I note the legal comment and have nothing to add to the report”.

12.2 The Head of Financial Services (Acting Section 151 Officer) notes the contents of the report.

13. Members’ Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reasons for Recommendation:
1. To adopt and publish the Powys Local Development Plan 2011-2026 (Enclosures 2.1, 2.2, 3.1 – 3.9), incorporating the changes recommended in the Inspector’s Report (Enclosures 1.1 – 1.12).	To comply with: <ul style="list-style-type: none">• Planning and Compulsory Purchase Act, 2004, as amended.• The Town & Country Planning (Local Development Plan) (Wales) Regulations, 2005, as amended.• Environmental Assessment of Plans and Programmes (Wales) Regulations 2004.• The Conservation of Habitats and Species Regulations 2017.• The LDP Delivery Agreement 2015.
2. To approve and publish the: i. Adoption Statement (Enclosure 4); and the ii. Final Assessment Reports for the Powys LDP (HRA SEA, SA) (Enclosures 5.1 – 5.3).	
3. To grant delegated powers to the Professional Lead – Planning Policy to correct any typing or grammatical errors, to deal with any minor matters or errors, and any presentational matters required for publishing the final LDP.	To enable publication to be expedited.
4. That the following existing UDP Supplementary Planning Guidance (SPG) only will remain as a	To enable existing detailed planning guidance to continue on an interim basis for two planning policy areas

material planning consideration in the determination of planning applications until superseded or withdrawn: (i) Affordable Housing for Local Needs SPG, 2010; (ii) Residential Design Guide, 2004.	and for all other SPG and IDCG prepared for the UDP to be withdrawn.
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Relevant Policy (ies):	Corporate Improvement Plan		
Within Policy:	Y	Within Budget:	Y
Relevant Local Member(s):	Relevant to all Members – see Section 7 above		
Person(s) To Implement Decision:	Professional Lead – Planning Policy		
Date By When Decision To Be Implemented:	17 th April 2018		

Is a review of the impact of the decision required?	Y / N
If yes, date of review	N/A
Person responsible for the review	N/A
Date review to be presented to Portfolio Holder/ Cabinet for information or further action	N/A

Contact Officer Name:	Tel:	Email:
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Background Papers used to prepare Report:

- Previous LDP / Cabinet / Full Council Reports relating to the Powys LDP.
- LDP Delivery Agreement 2015.
- EU Directives, Legislation, Regulations, Planning Policy Wales, LDP Manual, Planning Inspectorate guidance.
- One Powys Plan.

Enclosures:

Enclosure 1 - Inspector's Report 2018 comprising:

- 1.1 [Covering letter about the Inspector's Report](#)
- 1.2 [Powys Local Development Plan Inspector's Report](#)
- 1.3 [Appendix A – Part 1 \(Schedule of Matters Arising Changes \(MAC\)\)](#)
- 1.4 [Appendix A – Part 2a \(Schedule of Matters Arising Changes \(MAC\) to the Proposal and Inset Maps\)](#)
- 1.5 [Appendix A – Part 2b \(Schedule of Matters Arising Changes \(MAC\) to the Proposal and Inset Maps\)](#)
- 1.6 [Appendix A – Part 2c \(Schedule of Matters Arising Changes \(MAC\) to the Proposal and Inset Maps\)](#)
- 1.7 [Appendix A – Part 2d \(Schedule of Matters Arising Changes \(MAC\) to the Proposal and Inset Maps\)](#)
- 1.8 [Appendix A – Part 2e \(Schedule of Matters Arising Changes \(MAC\) to the Proposal and Inset Maps\)](#)

[1.9 Appendix A – Part 2f \(Schedule of Matters Arising Changes \(MAC\) to the Proposal and Inset Maps\)](#)

[1.10 Appendix A – Part 2g \(Schedule of Matters Arising Changes \(MAC\) to the Proposal and Inset Maps\)](#)

[1.11 Appendix A – Part 2h \(Schedule of Matters Arising Changes \(MAC\) to the Proposal and Inset Maps\)](#)

[1.12 Appendix B – Schedule of Inspector's Matters Arising Changes \(IMAC\)](#)

Enclosure 2.1 & 2.2 - Powys LDP 2018 written statement, incorporating the Inspector's binding recommendations. (Welsh 2.1 and English 2.2 versions provided).

Enclosure 3 - Powys LDP 2018 proposals and inset maps, incorporating the Inspector's binding recommendations. This is subdivided into Enclosures 3.1 - 3.9.

Enclosure 4 - Adoption Statement 2018.

Enclosure 5.1 - Final LDP Assessment Reports Links: Habitats Regulations Assessment Report (HRA), The Environmental Report (Strategic Environmental Assessment (SEA)), and the Sustainability Appraisal Report (SA) 2018.

Enclosure 5.2 – HRA Screening Report Addendum 2018.

Enclosure 5.3 – SEA and SA Addendum 2018.

Enclosure 6 - Consultation Report, 2017.

http://www.powys.gov.uk/fileadmin/Docs/Planning/LDP/LDP_2015/LDP_Stages/2017_MAC_Reps/Consultation_Report_Dec17.pdf

Acronyms:

HRA – Habitats Regulations Assessment

SEA – Strategic Environmental Assessment

SA – Sustainability Appraisal