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Consultation Document – Annex 2

Intentions of Revisions to The Town and Country Planning (Local Development Plan) (Wales) Regulations (2005)

Date of issue: **1 October 2014**

Action required: Responses by **2 January 2015**

WG23293

Consultation: Local Development Plans Process Review - Annex 2:

Intention of proposed revisions to: The Town and Country Planning (Local Development Plan) (Wales) Regulations (2005 No. 2839 (W.203)).

1. The Planning and Compulsory Purchase Act 2004 (*the Act*) (Part 6 Wales) and The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 (2005 No. 2839 (W.203)) (*LDP Regulations*) legislate for the Local Development Plan (LDP) system. The LDP Regulations prescribe the form, content and preparation procedure for LDPs.

2. Section 2 of the main consultation document advises on intended changes affecting the LDP Regulations. More information is provided in this Annex.

i. Site Allocation Representations - 'Alternative sites' stage

(a) Proposal:

3. We are proposing the deletion / omission of Reg20 'Handling of representations: site allocation representations' and Reg21 'Representations on a site allocation representation'.

(b) Legislation & guidance:

4. Section 77 of the Act provides for Regulations in particular to make provision as to the procedure to be followed in the preparation of LDPs. Regs20&21 relate to the handling of 'site allocation representations' made to the deposit version of the LDP, and commonly referred to as the 'alternative sites' stage. (Reg2 'Interpretation' defines a 'site allocation representation' as any representation which seeks to change an LDP by either adding a site allocation policy to the LDP or altering or deleting any site allocation policy in the LDP.)

(c) Reason for Amendment:

5. To gather information on potential sites for possible inclusion as allocations in the LDP, the LDP Manual 2006 already advises on a candidate site process and developing a site register during the early stages of developing the evidence base for the LDP (LDP Manual 2006 section 5.4.4).

6. The Deposit Plan (Reg17) is the draft plan that the local planning authority (LPA) should prepare based upon robust evidence, and which it considers to be 'sound'. We consider that the statutory process of advertising these new and alternative sites (as well as any deletions) under Reg20&21 is unnecessary and unduly onerous and burdensome by:

- undermining the original desire to 'frontload' the plan preparation process;
- adding to the costs and complications of LDP preparation;
- causing confusion for the general public in particular when they misunderstand the advertised sites to be the proposals of the LPA; and

- requiring advertising site allocation representations even though the vast majority stand very little chance of being included in the final LDP and may well have been considered by the LPA already at the Reg14&15 pre-deposit stages.

ii. LDP Review & Review Report

(a) Proposal:

7. We are proposing that a Review Report will be required to precede any proposed revision of the adopted LDP and would need to be formally approved by the LPA, published, submitted to Welsh Ministers and included as part of the evidence base at pre-deposit, deposit and Reg22(2) submission stages. This Report would consider the scope of the revision and clarify whether a full or short form revision procedure is required (see at iii below). The need for the Review Report would be triggered either through the Reg41 statutory 4-yearly requirement or following an LPA decision that review was required as a result of the conclusions of the Reg37 LDP Annual Monitoring Report or some other reason.

(b) Legislation & guidance:

8. Sections 69&70 of the Act provide for plan ‘review’ and ‘revision’. There is a process of ‘review’ (generally through review under section 69 & Reg41 and annual monitoring under section 76 & Reg37) which would trigger the need for the plan ‘revision’ process (section 70 & Reg3).

(c) Reason for Amendment:

9. The Review Report is intended to precede any plan revision. It would provide sufficient transparency aimed at ensuring that the LPA hasn’t failed to consider anything that it reasonably should have by setting out clearly what has been considered and what needs to change and why. Early availability of the Report and engagement with stakeholders is considered critical to enable any dissenting views on the scope of revision to be expressed and considered by the LPA early in the process.

iii. LDP Revision – Short Form Procedure

(a) Proposal:

10. Where the findings of plan review in the Review Report (at ii. above) indicate a full revision procedure (i.e. replacement LDP) and WG has not intervened then the regulations will apply as they do to a new plan. We are proposing to amend the procedure for revision of an LDP in circumstances where the issues involved are not of sufficient significance to warrant the full revision procedure. This will deliver a “short-form revision procedure” which is intended to be a quicker, shorter and more proportionate process for such partial revision of an LDP.

11. Under the short-form procedure, for the purpose of determining the scope of the revision and of generating alternative policy and/or site options, we propose that at the pre-deposit stage, the LPA be required to make available the Review Report (if not already available), and to engage and invite representations from those “specific consultation bodies” that it considers may have an interest in the subject of the proposed revision, and any of the “general consultation bodies” that the LPA

considers appropriate (these terms are clarified in Regulation 2 interpretation). The LPA must take into account any responses in preparing the proposed revisions for Deposit. The current Regulation 14 pre-deposit participation and Regulation 15 pre-deposit public consultation stage would not apply to the short-form procedure.

12. At the deposit stage the “LDP documents” to be deposited would be the proposed revisions to the adopted LDP, a revised SA Report, the Review Report, the initial Consultation Report and relevant supporting documents. The scope of duly-made representations will be limited to the proposed changes, parts of the extant adopted LDP affected by the changes and the findings of the Review Report.

13. The examination of the proposed revisions will be within the context of the adopted LDP. It is the revised LDP in its entirety that that should be adopted. As soon as reasonably practicable after adoption, the revisions should be incorporated into the adopted LDP made available.

14. A review of the Delivery Agreement will be necessary for the preparation of an LDP revision; a separate Timetable for the revision will be required and parts of the CIS may need to be revised (Regulations 9&10).

(b) Legislation & guidance:

15. Sections 69&70 of the Act provide for plan ‘review’ and ‘revision’. There is a process of ‘review’ (generally through review under section 69 & Reg41 and annual monitoring under section 76 & Reg37) which would trigger the need for the plan ‘revision’ process (section 70 & Reg3). Plan revision could either lead to a full replacement plan or to parts of the plan being revised. Reg3(1) applies the Regulations to the revision of an LDP as they apply to the preparation of an LDP.

(c) Reason for Amendment:

16. Currently, any revision has to go through the entire procedure akin to preparation of the plan, a procedure that is currently taking a minimum of 4 years. We are intending a shortened and more streamlined procedure that enables a more swift response for making partial revisions to an LDP based upon robust evidence in instances where the strategy remains sound.

iv. Other Matters

17. Our current thinking is that we will need to deal with the following issues:

18. **Interpretation:** - a “candidate sites schedule” will be added to the “pre-deposit proposals documents” at Reg2;
- “specific consultation bodies” will be updated at Reg2.

19. **End date:** a requirement that the LDP sub-title indicate ‘the end date of the LDP period’ (i.e. the end of the period for which the LDP is planning) at Reg11(1)(b).

20. **Resources:** regard should be had to the resources available or likely to be available to deliver the policies and proposals set out in the LDP (at Reg13). (This is key given that LDP strategies should be deliverable within the plan period.)

21. **Adoption:** amend first line of Reg25(2) to “As soon as reasonably practicable after the LPA adopt an LDP it must -“. Current requirement of “at the same time” could be argued to be too onerous or unclear.

22. **Notice:** remove the requirement to “give notice by local advertisement”; meaning “by publication on at least one occasion in a local newspaper circulating in the whole of the area of the LPA”.(e.g. at Reg22(5)(b); Reg23(1)(c); 24(2)(b); 25(2)(c); 26(b)). This will not reduce the level of publicity given to the LDP, as this will be suitably addressed in the Delivery Agreement through its Community Involvement Scheme.

23. **Savings / transitional provisions:** ensure that amendments made to the Regulations do not delay the momentum of plan preparation or disadvantage anyone.
