

Report of the Constitution Working Group

Council – 31 March 2015

LOCAL DEVELOPMENT PLAN PETITIONS

Purpose:	To agree a mechanism for all petitioners to proposed Local Development Plan (LDP) allocations to be heard.
Policy Framework:	Planning and Compulsory Purchase Act 2004; The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004; Local Development Plans Wales Guidance 2005; Local Development Plan Manual 2006; The Habitats Regulations (the Conservation (Natural Habitats & Conservation) (Amendment) (England & Wales) Regulations 2007; Wales Spatial Plan 2008; Planning Policy Wales, 2010 (as amended), and related Ministerial Interim Planning Policy Statements and Technical Advice Notes.
Reason for Decision:	To progress the LDP in accordance with the Welsh Government approved Delivery Agreement and to guide the preparation of the Deposit Plan.
Consultation:	Legal, Finance and Access to Services.
Recommendation(s):	It is recommended that: <ol style="list-style-type: none">1) the opportunity to present valid petitions be afforded to all petitioners objecting to proposed A and potential B-List LDP sites (including those sites subject of multiple letters of objection) and that site promoters be afforded the right to reply;2) the threshold for hearing petitioners remains 30 names as specified in the Constitution unless a lower number of signatures is agreed by the Portfolio Holder for Petitions; and3) all petitions be heard at a series of extraordinary meetings of full Council and considered in context with other proposed or potential LDP sites; or4) the Constitution be amended to enable valid petitions to be reported to Council for final decision following consideration at:<ol style="list-style-type: none">(i) Planning Committee;(ii) the LDP Advisory Group; or(iii) a Special Petitions Committee created for that purpose
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1. Background

- 1.1 In response to the LDP Candidate Site consultation process and more recent consultation on the Draft Proposals Map 35 petitions (of over 30 signatories) were received relating to 55 of the more than 550 Candidate Sites with collectively over 16,000 signatures.
- 1.2 A further 31 Candidate Sites have been subject of multiple (i.e. more than twenty) identical letters of objection. These are also classified as petition sites. Thus in total there are 86 sites which are effectively subject of 'petition'.
- 1.3 Lead petitioners have been kept informed of LDP preparation progress and advised that they would be given the opportunity to speak at the appropriate time should the site subject of their objection be put forward for inclusion in the Deposit Plan – earliest anticipated date June 2015. No such commitment has been given in relation to sites subject of multiple letters of objection where there is no obvious lead petitioner.
- 1.4 Sites considered suitable for inclusion in the LDP are categorised as A-list sites. B-list sites are also potentially suitable for inclusion, but due to availability of sequentially preferable sites in policy terms, development constraints, or for locational (market) reasons, they have not been included in the plan at the present time. C-list sites are sites subject of fundamental constraint, or are not of sufficient scale to be allocated in the LDP (less than 10 units), or have been withdrawn for various reasons. The C-list sites were reported to Council in August 2014 when it was agreed that they would not feature as allocations in the LDP.
- 1.5 Details of the petition sites are set out in the ***Schedule of Proposed LDP Allocations Subject of Petition*** accompanying this report and summarised in Table 1 below:

Table 1: Categorisation of LDP Candidate Sites subject of petition

Categorisation	Number of sites
A-list	19
B-list	8
C-list*	50
Commitments	5
No change proposed	3
Boundary amendment	1
Total	86

* Total includes those sites which failed Stages 1 & 2 of the assessment process or have been withdrawn

- 1.6 Almost 60% of the petitions (50) can immediately be discounted from further consideration as the C-list sites to which they refer are not being considered for inclusion in the LDP. In addition, those sites categorised as 'commitments' are sites which have the benefit of planning permission and in some cases development has already commenced on

site. The LDP is not a further opportunity to object to these proposals and the five petitions in relation to these sites can be discounted as invalid. Three petitions relate to protection of land which is not being proposed for development in the LDP, again these are not valid as there are no proposals to petition against.

- 1.7 A further site (OY003) is subject of a boundary amendment to include the land within the urban settlement boundary. However no allocation is proposed for the site which will be shown as White Land in the LDP (i.e. land where existing use is expected to continue, but future development proposals may be brought forward for consideration on their individual merits). Further consultation will be carried out if an application is submitted in future, but there are no proposals to be considered at this time.
- 1.8 This leaves 19 A-list sites (out of a total 100 proposed allocations) subject of petition which collectively provide land for 2600 dwellings, i.e. around 15% of the total LDP housing requirement. There are also 8 B-list sites subject of petition which could become A-list sites if current A-list sites are rejected. The petitioners against any replacement sites should also be heard as appropriate before a decision is reached

2. Process for considering petitions

- 2.1 The Council's Constitution, which is in the process of being amended, currently states under Part 5: Petitions Procedure:

3.2 From time to time the Council will engage in consultation with the public in relation to matters which have a high impact, of major public interest or of a sensitive nature. In these circumstances petitions may be referred directly to full Council as part of the consultation process. Petitioners will therefore have the ability to address all Councillors even if Council is not the decision making body. This will enable Council to consider all matters prior to making its views known to the ultimate decision making body

3.3 In the situation envisaged by Paragraph 3.2, any petitions will be considered by the ultimate decision making body as part of a report and the petitioners will not address that decision making body directly

- 2.2 The formulation of Development Plan Strategy is a policy matter which must be agreed by Council and paragraph 3.2 of the Constitution makes clear that petitioners have the right to speak to Council. However it would be very difficult for Council to consider and make decisions on petition sites in isolation from and in advance of consideration of the LDP Deposit Plan.

- 2.3 Furthermore, should Council be minded to recommend exclusion of any proposed allocations after hearing petitioners, it could not do so until hearing the views of any petitioners against the alternative compensatory site(s) that would need to be brought into the Plan within the same strategic housing policy zone to make up for any housing lost through exclusion.
- 2.4 A decision on which petition sites are to be included in the Deposit Plan must be made in advance of consideration of that document by Council. Therefore under current arrangements a series of extraordinary meetings of Council will need to be called to hear petitioners and decide which sites to include. A decision on these sites is urgently required as it is delaying the finalisation of the Deposit LDP and a new Delivery Agreement will need to be entered into with the Welsh Government.
- 2.5 The agreed protocol (further details set out in Appendix 1) provides for a total time of ten minutes for hearing each petition (a maximum of 5 minutes each for the objectors and the site proposers). In practice, allowing for changeovers and any overrun at the discretion of the chair this would mean that no more than 5 petitions could be heard per hour. However discussion of the merits of each site by Members will mean in practice that no more than 2 to 3 could be heard per hour
- 2.6 For multiple objection sites, there may be more than one person wishing to speak. However, the time limit remains 5 minutes and such 'petitioners' will need to be advised in advance in order to organise themselves and nominate a spokesperson.
- 2.7 When considering sites for inclusion in the LDP only matters of principle are considered in the context of the agreed Preferred Strategy. Matters of detail typically relevant to planning applications, such as loss of light or privacy, highway safety, traffic and parking, noise, amenity, design and appearance, etc. do not apply. Furthermore if a site is to be recommended for exclusion from the plan a replacement alternative needs to be identified at the same time to weigh up the merits and hear the objectors to that site before reaching a decision.
- 2.8 Details of all petitions were reported to the LDP Advisory Group in February 2015 and subsequently to the Constitution Working Group in March 2015 for further consideration. It was agreed that all valid petitions should be heard and that multiple identical letters of objection should be classified as petitions. It was confirmed that the selection of development sites for inclusion in the LDP is a policy matter and as such the final decision on site selection should be made by Council.
- 2.9 Petitioners will therefore need to be heard in a series of carefully managed whole-day meetings, suggested to be based on strategic housing policy zones. These meetings may either be extraordinary meetings of Council or, subject to Council agreement, delegated to another forum (such as the Planning Committee, LDP Advisory Group or

a specifically established Special Petitions Committee) that will report its findings to Council for final decision. A decision therefore needs to be made on which of the following options is the preferred mechanism for hearing petitions:

- i) Extraordinary Council;
- ii) Planning Committee;
- iii) LDP Advisory Group; or
- iv) Special Petitions Committee (which could be a meeting of (ii) or (iii) above).

2.10 Decisions on which sites to include/exclude has implications for the Deposit Plan - which is the next stage of plan preparation. Any meetings to hear petitioners should therefore also consider which non-petition sites should be included in the LDP and this should form part of the final recommendation to Council. Any objections to sites included in the Deposit Plan following consultation will not be considered by Council, but are reported instead to the Planning Inspectorate for consideration at examination.

3. Equality and Engagement Implications

3.1 For the LDP itself, an Equality Impact Assessment scoping exercise has been undertaken in which it was highlighted that a full Assessment will have to be completed once LDP preparation reaches Deposit stage. Following discussions with the Access to Services Team, it is proposed that the Assessment will be produced as a background document to the Deposit LDP where it will be subject to a consultation period and any comments received will be taken into consideration.

3.2 For the purposes of this report, establishing a forum to enable petitioners to exercise their speaking rights will ensure that their concerns are heard and responded to appropriately. Once agreed, any process must take account of the relevant equality considerations, such as access and language needs.

4. Financial Implications

4.1 Whilst there are no immediate financial implications arising from preparation of the LDP, its adoption could result in additional expenditure at a future time. This does not mean that additional resources will be made available and it should be assumed that future spending needs will need to be contained within existing budget provision.

5. Legal Implications

5.1 The legal implications associated with this report are that any alternative approach to referring multiple petitioners to Council would require an amendment to the Council Constitution.

6.0 Conclusion

6.1 A proposed amendment to the Petitions Procedure in the Council Constitution Matters is highlighted in bold below which would enable Council to delegate the hearing of petitions as appropriate.

3.2 *From time to time the Council will engage in consultation with the public in relation to matters which have a high impact, **are** of major public interest **and/or** of a sensitive nature. In these circumstances petitions may be referred directly to full Council as part of the consultation process. **Alternatively, where a significant number of different petitions arise, for example during the preparation of a development plan or other corporate strategy, petitioners will be given an opportunity to express their views directly to a Special Petitions Committee. Petitioners will therefore have the opportunity to address all Councillors even if Council is not the decision making body, or in the event that a Special Petitions Committee is established petitioners will have the opportunity to address the Committee who shall consider all matters prior to making its views known to Council as the ultimate decision making body.***

6.2 It should be noted that current petitions and objections are not carried forward to the LDP Examination - only those made in response to the Deposit Plan. Any further such representations would be heard and considered by the Planning Inspectorate rather than the Council.

Background Papers: None.

Appendices: Appendix 1: Council Constitution Petitions Procedure.
Appendix 2: Schedule of Proposed Local Development Plan Allocations Subject of Petition.

Appendix 1: Council Constitution Petitions Procedure

5 PETITIONS PROCEDURE

1 Petitions

- 1.1 From time to time members of the public will wish to make representations to the Council about a matter which is of general interest to a particular community.
- 1.2 In addition, where the Council is engaged in public consultation, petitions may be submitted as part of this process.

2 Receipt of Petitions

- 2.1 Petitions received by the Authority shall be passed to the Democratic Services (DS) Team.
- 2.2 Should a Petitioner wish to formally present a Petition of normally over 30 signatures (see paragraph 3.2 below) to the Authority, s/he should give notice to the DS Team.

3 Determining the Validity of Petitions

- 3.1 Petitions shall only be considered valid if they are in relation to something which falls under the remit of Council. Subject to paragraph 3.2, they will not be considered if they are in relation to:
 - a. The conduct or rights of an individual or individuals;
 - b. Staff/Trade Union matters of employment;
 - c. The same or substantially the same matter as an earlier petition received within the preceding six months;
 - d. Matters that must be decided by a separate Council body such as the Cabinet, Licensing Committee, Licensing Sub Committee, Development Management & Control Committee, or Area 1 and Area 2 Development Control Committee, in which case these petitions will be reported to the appropriate body and the petitioners invited to attend.
- 3.2 From time to time the Council will engage in consultation with the public in relation to matters which have a high impact, of major public interest or of a sensitive nature. In these circumstances petitions may be referred directly to full Council as part of the consultation process. Petitioners will therefore have the ability to address all Councillors even if Council is not the decision making body. This will enable Council to consider all matters prior to making its views known to the ultimate decision making body.
- 3.3 In the situation envisaged by Paragraph 3.2, any petitions will be considered by the ultimate decision making body as part of a report and the petitioners will not address that decision making body directly.

- 3.4 Petitions should normally have at least 30 signatures in order to validate them. However, the Portfolio Holder for Petitions shall have power to waive this requirement, should s/he determine that the subject of the petition affects a lesser number of people.
- 3.5 The DS Team would normally take the responsibility for determining whether a petition is valid. However, if there is uncertainty and the petition is lower than the required 30 signatures, the Portfolio Holder for Petitions shall determine the validity of the petition.
- 3.6 If the petition is deemed invalid, then the DS Team shall inform the Lead Petitioner of this and the relevant Department shall deal with it as general correspondence.

4 Petitions on related matters

- 4.1 The Authority often receives a number of petitions on related matters. Should 2 or more petitions be received on the same or substantially the same matters, then where possible, the Department will attempt to treat the matter as one issue.

5 Procedure for Dealing with Petitions

- 5.1 A flowchart showing the Petitions Procedure is attached.

Petitions Procedure

