

**Prif Gynllunydd, Y Gyfarwyddiaeth Gynllunio
Chief Planner, Planning Directorate**

To: Chief Planning Officers

18 March 2020

Dear colleagues,

Local Development Plan (LDP) Preparation - Novel Coronavirus (COVID-19)

Wales is becoming increasingly affected by the global pandemic, Novel Coronavirus (Covid-19). The health of every member of our community is the prime focus for us all at this challenging time and I know many of you have already been involved in local preparations to respond quickly and flexibly to the pandemic.

Over the last few days we have received a number of individual queries about how to progress LDPs at this time, in particular what do to about current and programmed public consultation and involvement events.

The key issues identified so far for LDPs are summarised below:

Local Authority Resources/Capacity

Many of you will be considering how to respond to the current exceptional circumstances, including the well-being of staff, the capacity of staff to progress LDPs, as well as prioritising functions within your authority to deal with the current situation. Reduced capacity within LDP teams will have a bearing on the progression of technical work to support the plan, as well as engaging with stakeholders.

Plan Engagement/Consultation

The Community Involvement Scheme (CIS) is an integral part of a Delivery Agreement (DA) setting out who will be consulted, at what stage in the plan preparation process and by what medium. Ensuring conformity with the CIS is a key test of 'soundness'; failure to comply with the CIS can result in plans being unable to be found 'sound' and therefore adopted.

Specifically, the CIS sets out how a Local Planning Authority (LPA) will engage and consult at the statutory consultation stages, i.e. Preferred Strategy and Deposit. The

detail of venues, dates, times and mechanisms will be expanded as the relevant stage is reached through public notices, press and social media outlets. These can range from drop in sessions, public events, specific engagement groups etc. This equally applies to some non-statutory stages, such as the call for sites (Candidate Sites).

The impact of Covid-19 is restricting the movement of people, accessibility to public buildings and cancellation of engagement events, placing an increasing emphasis on self-isolation, particularly for the elderly who often have more limited access to the Internet. The ability to fulfil the CIS with regards to plan consultation is becoming increasingly more difficult, and could be impossible in the near future.

Delivery Agreement/Timetable

The combination of the pressures on staff, re-prioritisation in response to the current exceptional circumstances and increasing inability to fulfil the CIS, means that LDPs will find it difficult to adhere to the agreed Delivery Agreement (DA). Compliance with the agreed DA is a test of 'soundness' issue which, if not adhered to, can result in LDPs not being found 'sound', unable to be adopted and may be open to legal challenge.

Proposed Way Forward

In light of the exceptional circumstances being experienced through the Covid-19 virus, progressing an LDP in line with the legal obligations set out in both the DA and CIS will not be possible.

The Planning and Compulsory Purchase Act 2004 (PCPA 2004) and the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005, as amended, legislation does not anticipate, or articulate, how to deal with such exceptional circumstances.

Having considered a number of questions received from LPAs over the last few days our proposed approach is set out below.

LDPs subject to statutory consultation:

Where LPAs have fulfilled their legal obligations under the DA and CIS, they have completed that statutory stage, but will need to pause and reflect how they progress the plan. Technical work can be progressed, but reporting to Council and the ability to adhere to the agreed plan preparation timeline may be difficult, due to the current exceptional circumstances. Detailed consideration should be given to the implications on the timing of plan preparation and how much additional time will be required. This will require a revised DA at a later point in time. This situation applies to Pembrokeshire and Carmarthenshire.

- Pembrokeshire County Council – Consultation on the LDP Deposit plan concluded on the 18 March 2020. Provided all the engagement events specified in the CIS have been completed, the plan will have fulfilled its legal obligations regarding the consultation stage.

- Carmarthenshire County Council – Consultation on the LDP Deposit plan concludes on the 27 March 2020. Provided all the engagement events specified in the CIS are completed and stakeholders can access places where the relevant plan documentation is located, the plan will have fulfilled its legal obligations regarding the consultation stage. This is a matter for the LPA to confirm.

The following three LPAs are currently/imminently subject to public consultation but will not be in a position to fulfil their DA/CIS obligations.

- Monmouthshire County Council - Consultation on the LDP Preferred Strategy concludes on the 24 April 2020. The engagement events specified in the CIS will not be completed, as venues have subsequently become unavailable. This means the plan cannot fulfil its legal obligations regarding the consultation stage.
- Torfaen County Bough Council – The Council have sought a revised DA (currently subject to agreement) indicating public consultation on the Preferred Strategy commencing April 2020. The LPA will need to reflect on whether it can fulfil the consultation obligations in both the DA and CIS. It is unlikely this can be achieved under the current circumstances.
- Ceredigion County Council - The Council have sought a revised DA (currently subject to agreement) indicating public consultation on the Preferred Strategy commencing July 2020. The LPA will need to reflect on whether it can fulfil the consultation obligations in both the DA and CIS. It is unlikely this can be achieved under the current circumstances.

With regard to Monmouthshire Council the current Preferred Strategy consultation should stop immediately. The availability of venues, staff and ability of stakeholders to engage in the plan making process means compliance with the DA and CIS cannot be achieved. The published evidence base to support the plan should be retained on the Council website. The Preferred Strategy consultation stage should be repeated from the beginning at a later date when stakeholders and resources are available to ensure full compliance with the CIS. A revised DA will be required at a later point in time.

In relation to both Ceredigion and Torfaen Council, further consideration needs to be given to the timing of plan preparation, specifically the start date for commencing consultation on both Preferred Strategies. A revised DA to rectify any timing discrepancies can be achieved at a later date.

LDPs subject to examination/submission:

Two authorities are either at or nearing examination stage.

- Wrexham County Borough Council's LDP is currently subject to examination. Whilst the hearing sessions have completed, the appointed Inspectors have not published their report. Due to the stage reached in the LDP process there is no requirement for a revised DA.

- Flintshire County Council are due to submit their LDP for examination in June/July this year. The Council should continue to finalise the plan for submission and if possible gain Council approval. If submission of the plan is delayed, a revised DA will be required to accompany submission of the plan.

LDPs due to formally commence replacement plan preparation:

For those LPAs who are currently, or are about to consult on a draft DA, careful consideration should be given to the formal start date of LDP preparation. The exceptional circumstances may mean that the commencement of plan preparation may have to be postponed for several months to enable effective engagement in the plan preparation process, as set out in the CIS and DA. A revised DA will be required at a future date.

All remaining LPAs progressing LDPs:

For those LPAs not specified above the current exceptional circumstances will have a bearing on the ability to move forward over the forthcoming months. The Welsh Government is sympathetic to the pressures faced by all LPAs in the current climate. Whilst development plan coverage remains a key priority you should consider whether existing approved DAs can be adhered to, alongside CIS engagement plans. It would also be advisable to prepare a revised DA which can be submitted at a later date when greater clarity is available.

In summary, the Welsh Government is adopting a pragmatic approach as to how plan preparation accommodates the current exceptional circumstances. It is important not to progress plans that could be in conflict with the legal requirements set out in the CIS and DA. I am asking all LPAs to reflect on their individual circumstances and consider the most prudent way forward in these uncertain times. I would also stress that as much technical work as possible is undertaken during this period.

The Welsh Government will take a pragmatic view on the implications delays on plan preparation may have on other legislative requirements, such as the end dates of plans.

I trust this letter provides clarity on how we can collectively move forward over the forthcoming months and wish you all well at this difficult time.

Yours Sincerely,

N. Hemington .

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