

Pre Hearing Meeting

Thursday 19 November 2015 at 10:00am

***Held at Council Chamber, Civic Offices, Holton Road, Barry,
CF63 4RU***

Appointed Inspector: Mr Richard Jenkins BA (Hons) MSc MRTPI

Programme Officer: Sarah Knevett

Contact Details:

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Participants:

- *Inspector: Richard Jenkins*
- *Vale of Glamorgan Council: John Raine (JR)*

1. Opening and Introduction

The Inspector opened the Pre-Hearing Meeting (PHM) at 10.00.

He introduced himself as a chartered Town Planner and explained that he has been appointed by the Welsh Government to examine the soundness of the Vale of Glamorgan Local Development Plan (LDP). Colleagues of the Planning Inspectorate present at the meeting were introduced as Robert Sparey and Chris Sweet. Sarah Knevett also introduced as the Programme Officer.

The Inspector confirmed that everybody could hear and asked that all mobile phones be turned off / turned to silent. Nobody had provided advanced notification of wishing to speak in Welsh. As such, the meeting was to proceed in English. Anyone who requires Welsh translation at future sessions was requested to speak to the PO after the PHM. Inspector confirmed that no fire drill was scheduled and explained emergency evacuation procedures accordingly.

In the interests of sustainability and saving public money, the Inspector explained that the Examination will be conducted via electronic working as far as possible. It is the responsibility of participants to regularly check the website. Participants are also advised to provide an e-mail address to the PO wherever possible, as this is the fastest and most effective way to communicate any last minute changes to arrangements.

2. Purpose of the PHM

The purpose of this PHM is to explain the procedural and administrative matters relating to the management of the Examination, including:

- The programme for the hearings;
- The matters to be examined and related questions;
- The running order and participants;
- The methods of dealing with representations;
- The timetable for submitting statements; and
- Any other relevant procedural matters

The content and merits of the Plan and the representations will NOT be discussed at the PHM.

3. Role of the Programme Officer (PO)

PO contact details are given at the start of this Note, and are available on the examination website.

The PO is acting as an independent officer for the Examination, under the Inspector's direction. Her responsibilities are set out in the Guidance Note that has been made available and, in brief, she will assist the Inspector with the procedural and administrative matters associated with the Examination.

Any matters which the LPA or participants wish to raise with the Inspector must be addressed to the Programme Officer. The Programme Officer will also be responsible for making arrangements for the hearing sessions, for receiving, recording and distributing documents and overseeing the Library.

Guidance Notes relating to the Examination have been published on the website.

4. Scope of the Examination and Role of the Inspector

The role of the appointed Inspector is to consider whether the Plan is sound. As such, the Inspector's authority to recommend changes to the Plan is limited by statute to those that are necessary to make the Plan sound, as opposed to those changes that would serve to improve an already sound plan. Therefore, the Inspector will consider the representations made by all parties, but only insofar as they relate to matters of soundness.

The soundness tests were previously set out in the Welsh Government publication entitled Local Development Plans Wales (LDPW). However, this document has recently been superseded by the amendments to Chapter 2 of Planning Policy Wales which were published in August 2015. A 2nd edition of the Local Development Plan Manual has also been published recently.

- PPW Chapter 2 (August 2015) available at: <http://tinyurl.com/PPW-Ch2>
- LDP Manual Edition 2 at: <http://tinyurl.com/LDPManualv2>

The amendments to Chapter 2 of PPW incorporate new Tests of Soundness, effectively replacing those previously identified in LDPW. In brief, the new tests require the assessment of:

1. Whether the Plan fits (i.e. is it consistent with other Plans);
2. Whether it is appropriate in light of the evidence; and
3. Whether the Plan deliver.

As new Policy, there are no transitional arrangements for implementing these tests. As such, they will form the basis for the Examination. However, it is clear from that there is considerable overlap with the older tests of soundness. As such, there is no need for parties to submit further information to account for

the change to the tests and the Inspector confirms that nobody will be prejudiced by the timing of the publication of the new tests.

5. Procedural Questions for the LPA

RJ – Who is representing the Council?

JR – John Raine, Principal Planner, Regeneration and Planning.

RJ – In terms of Examining the Plan, can the Council please confirm that the version of the Plan which is to be examined is the deposit version as amended by the proposed Focussed and Minor Changes which was consulted on between July and September of this year?

JR – That is correct.

RJ – Does the Council consider this version of the LDP to be sound?

JR – Yes, the Council considers that the LDP is sound.

RJ – Any further changes which the Council wishes to make through the Examination should be submitted in the form of a schedule which should be placed on the examination website and updated as necessary. Such changes will be referred to as "Matters Arising Changes" (MACs) which will be discussed at the hearing sessions. It is for the appointed Inspector, to ultimately decide whether such changes are necessary for soundness in the Report.

RJ – Could the Council please confirm whether the LDP has been prepared in accordance with:

- *The statutory procedures under Section 64(5) (a) of the 2004 Act and associated regulations?*

JR – Yes.

- *Is it compliant with the Authority's Community Involvement Scheme, as set out in the Delivery Agreement?*

JR – Yes, with some minor deviations necessary.

RJ – This will be explored at the appropriate Hearing session.

- *Is the LDP supported by Sustainability Appraisal/ Strategic Environmental Assessment and Habitats Regulations Assessment?*

JR – Yes.

- *Whilst it is something that will be explored in detail at the hearings, I would appreciate it if the you could confirm that you consider the Plan to comply with national and regional policy?*

JR – Yes.

- *Does it have regard to the Wales Spatial Plan and the Council's community strategy and are the necessary resources likely to be available to implement the Plan?*

JR – Yes.

6. Representations on the LDP

Some **3,367** representations were received to the deposit version of the Plan from some **1,328** representors.

The consultation on the Alternative Sites process also generated some **8,222** representations from **1,715** representors, whilst the Focussed Change consultation generated a further **1,054** representations from **167** representors.

In accordance with the regulations, the Inspector is not in possession of any representations relating to the LDP before it reached Deposit stage.

7. Method of Considering Representations

The Examination will focus on what the Inspector determines to be the main issues that are relevant to the soundness of the Plan. As such, its nature will differ significantly from the older Local Plan and UDP systems which were focussed on individual objections.

In accordance with section (6) of the Planning and Compulsory Purchase Act 2004, only those representors who are seeking a change to the Plan have the right to be heard at a hearing session. As such, those supporting or merely making comments on the Plan are not entitled to attend. Such parties, along with those who have not indicated that they wish to be heard, will have their representations dealt with by means of written representations.

In this respect, it is important to note that representations made in writing are attributed equal weight to those submitted orally at a hearing session.

Some representors have raised concerns relating to the fact that objectors to new alternative sites have not been invited to participate at the Alternative Site Hearing Sessions. However, as stated, section 6 of the Act is clear that only those seeking a change to the Plan are entitled to participate at the hearings. As such, those representations objecting to new Alternative Sites proposed by other representors (but not included within the Plan) are, in effect, supporting the Council's Plan. Only where such sites are subsequently incorporated into the Plan by means of Matters Arising Change will the objectors of such sites have

the right to be heard at a subsequent hearing. Should this be the case, objectors to such sites will not be prejudiced and would have the right to be heard.

If anyone has requested to be heard, but has not been included as a participant in the draft Programme of Hearings, then contact the Programme Officer as soon as possible. If anyone who originally wished to be heard decides that they wish to rely on their written submissions only, they should inform the Programme Officer at the earliest opportunity. People have been assigned to the most appropriate sessions based on their representations, but if anyone thinks that they have been put in too many or too few (or even the wrong sessions), then please inform the Programme Officer. However, you only have the right to be heard in relation to the matters raised in your original representations.

8. Procedure at Hearing Sessions

The Hearings will commence at 10:00 on Tuesday 19 January 2016. This is one week later than originally anticipated due to the logistics of arranging such an event around the Christmas break.

Details for the running of the hearings are set out in the Guidance Note but, in essence, they will take the form of informal discussions led by the appointed Planning Inspector. The discussion will be based on an agendas provided beforehand. Copies of the draft agendas for the first 6 sessions have already been published and are available on the website. Hard copies are available on request from the PO. Agendas for the subsequent sessions will be issued within the next 2 weeks.

Participants at each of the hearing sessions will be offered the opportunity to submit a Hearing Statement in advance of the relevant hearing session. Dates for the submission of statements will be specified on the Examination website and on the invitations to attend such sessions.

Given the level of interest in housing provision, it has been necessary to schedule duplicate hearing sessions. This is not the first time that such an approach has been adopted by development plan Inspectors. The first of the Housing Provision sessions will take place on Wednesday 20 January and the second duplicate session will be held on Thursday 21 January. If you have made representations and have been invited to appear in relation to this topic, **you will ONLY be permitted to participate at the session to which you have been invited. However, I would welcome representors to OBSERVE the session that they have not been invited to, although this is not essential.**

Welsh and English translation facilities will be available at the hearing sessions where they have been requested in advance, in accordance with the Council's

Welsh Language Policy. If this is required, please speak to the Programme Officer as soon as possible.

The Council does not intend to be legally represented and there is nothing before the Inspector to show that any formal hearing or inquiry sessions are justified.

9. Examination Hearing Programme

Whilst this Pre Hearing Meeting does not provide an opportunity to discuss, examine or test evidence, it is useful to outline some of the key matters and issues that will be examined.

Matters and Issues agendas for the first six Hearing Sessions (HS) have been published to the Examination Documents webpage: <http://tinyurl.com/VOG-LDP-ED>

- HS1 - Plan preparation, vision, objectives and development strategy (including the spatial distribution of development and the settlement hierarchy)
- HS2 & 3 - Housing Provision (including both requirement and supply)
- HS4 - Infrastructure and Delivery
- HS5 – Economy & Employment
- HS6 - Affordable Housing

The remaining Matters and Issues Agendas will be published within the next couple of weeks, along with invitations to attend such sessions.

The Inspector has already requested additional information from the Council in relation to certain matters:

- A housing trajectory to demonstrate the anticipated delivery of housing through the plan period, with particular reference to site constraints and any infrastructure requirements that may be necessary in order to bring the sites forward.
- An update on the status of both the housing allocations and committed sites that make up the housing land supply.
- A paper to demonstrate that the LDP would meet the national policy requirement of offering a five year housing land supply upon adoption.

This information will assist in addressing the Matters and Issues identified on the Agendas relating to 'Plan Strategy', 'Housing Provision' and 'Infrastructure and Delivery'. All of this information will be on Examination Website shortly.

Participants should check the website regularly. Those participating in the identified sessions should ensure they familiarise themselves with the additional material before preparing their Hearing Statements.

The justification for the Strategic Employment Sites, along with the provision of local employment sites, will be central to much of the discussion at the Economy and Employment Hearing Sessions, whilst the Affordable Housing Session will focus primarily on whether the Plan does enough to maximise affordable housing delivery in light of the most up to date evidence and whether the Policy requirements are appropriate in light of the viability evidence. The Inspector will also ensure that any assumptions used in the viability assessment are appropriate and robust.

Following the first six Hearing Sessions there will be an unavoidable break, before subsequent hearing sessions will be held in relation to:

- The proposed housing allocations,
- Settlement boundaries and green wedge,
- Gypsy and Traveller accommodation,
- Transport,
- Retailing,
- Minerals and Waste,
- Historic and Natural Environment and
- Any other miscellaneous policy matters.

All matters to be discussed at these sessions will be outlined in the Matters and Issues agendas that will be published within the next couple of weeks.

Alternative Site sessions are scheduled in week commencing 11 April 2016, after the Easter Break.

The Inspector has raised with the Council that there are significant shortcomings in relation to the Plan's Monitoring Framework, particularly in relation to the ranges proposed, the lack of appropriate triggers and unspecified actions. The Welsh Government has offered to work with the Authority to improve the framework, building on the experiences of recently completed Examinations. The revised Monitoring Framework will be tested at a hearing scheduled for 21 April 2016.

The Programme of Hearings is only in draft form to enable participants to be moved to alternative sessions if necessary and appropriate. However, every effort will be made to keep to the dates programmed. Nevertheless, some changes may be unavoidable. In these circumstances, the Programme Officer will inform the participants of any relevant late changes to the timetable, but it is the responsibility of the participants to keep themselves up to date with the arrangements and programme by checking the Examination website. It would be helpful if participants and observers could let us have a contact number in case

of cancellation of any hearing sessions due to snow or any other unforeseen circumstances.

If there are any other matters which any of the invitees consider ought to be included on any of the agendas, you should contact the Programme Officer who will discuss it with the Inspector. If it proves necessary to amend one or more of the agendas, revised versions will be available at least a week before the relevant session. However, all agendas incorporate an option for any other matters which should be used accordingly. All hearing sessions are public and those not invited to participate are welcome to observe.

10. Submission of Further Material / Hearing Statements

From now on all written submissions from participants should only be submitted if requested by the Inspector, and should address only those matters identified in the Matters and Issues Agendas. These should take the form of a short statement to address some or all of the matters and issues identified in the draft agendas. The Council should prepare a Statement for each hearing session, covering all the matters and issues raised. If other participants think their original representation covers all of the identified matters it is not necessary to submit a statement.

Further detail on the content and deadline for submissions is set out in the Guidance Note (available from <http://tinyurl.com/VOG-LDP-ED>). The deadline for the submission of Statements for the first 2 weeks of hearings (comprising Sessions 1- 6) is Wednesday 16 December 2015. Please adhere to the guidance on the submission of written material and these deadlines. The Inspector may also request additional comments or clarification in advance of a hearing. In such an event all participants at the hearing will be notified of such a request.

Late submissions and unsolicited additional papers will not be accepted.

There is no need to prepare a statement if all the points are already covered in the original representation, but it would be helpful if participants would notify the Programme Officer if they do not intend to submit further statements. The Inspector does not have copies of any communications submitted to the Authority before the Plan was placed on deposit.

The Programme Officer will require 3 copies of all statements (and an electronic copy where possible).

11. Availability of Information

The Programme Officer will maintain the Examination Library. It will contain Core and Examination Documents, background papers and any other documents that

are likely to be referred to including all representations, further representations and statements. The Documents list is available on the Council's website where it is also possible to inspect all of the representations received in relation to the deposit, alternative site and Focussed Change stages.

All participants should ensure that any documents that will be referred to are included in the list of Core Documents.

Lists of documents, the up-to-date programme for the hearing sessions and other relevant material will be on display on the Examination notice board at the hearing venues. If you wish to inspect documents that are not held in the Library in hard copy, please make an appointment via the Programme Officer.

12. Site Visit Arrangements

The Inspector will conduct a tour of the area, including site visits to those sites referred to in the representations. This will be undertaken on an unaccompanied basis. Only where there are exceptional circumstances that warrant an accompanied site visit will this take place.

13. Close of the Examination

The Examination will remain open until submission of the Inspector's Report to the Council. However, further representations or evidence will not be accepted after the hearing sessions have finished. The Examination remains open to enable the Inspector to request further information if a deficiency is identified. However, any late or unsolicited material is likely to be returned.

14. Submission of the Inspector's Report

After the Examination has closed, the Inspector's Report will be submitted to the Council. Any recommendations in the Report are binding on the Council. The date of submission will depend on the content, extent and length of the Examination. The likely submission date will be confirmed by the Inspector at the end of the hearing sessions. To reiterate, the Inspector's recommendations will be binding, and the Authority will have no option other than to adopt them.

The Note of this Pre-Hearing Meeting will be published on the Examination website and link e-mailed (where possible) to all those who have made representations.

15. Questions

- **What is the purpose of this meeting when the Council has no intention of following its own plan and they have ignored all public opposition?**

RJ – The PHM is for procedural matters relating to how I will run the Examination. Some of the concerns you express go beyond my remit in examining this LDP for soundness. Any complaints about the Council and its procedures relating to the processing of planning applications should be addressed to the LPA in the first instance.

- **If the plan is adopted, will the Inspector be following its implementation up to 2026?**

RJ - The appointed Inspector and the Planning Inspectorate have no remit to monitor implementation of an LDP after adoption. My role is to examine the plan for soundness, and my involvement ends once my final Report has been submitted to the Council. As mentioned, the LDP features a Monitoring Framework which will be examined for soundness, and if adopted the LPA would submit Annual Monitoring Reports to Welsh Government.

- **Does the interregnum between the expiration of the plan period of the old Unitary Development Plan (UDP) and the eventual adoption of an LDP represent 'open season' for developers? Will this plan be out of date by the time it is adopted?**

RJ – The Examination of the plan could not commence until it was submitted by the Council. The LDP plan period runs until 2026, with a requirement in the regulation for regular plan review post-adoption, so if it is adopted following this examination it would still have a considerable lifetime. As to the gap between expiry of the UDP plan period and adoption of an LDP, Planning Policy Wales (PPW) provides clear advice on the weight to attribute to emerging LDPs (see paragraph 2.8.1 of PPW). Also, the UDP currently remains in place for Development Management purposes even though the plan period has expired. Should the LDP be adopted, it will replace older development plans as the primary consideration in the development management process, It should be noted that Development Management is the LPA's responsibility in the first instance and any queries about their handling of current applications should be directed to the LPA.

- **At the hearings we can only comment in terms of soundness of the plan? This is daunting for members of the public.**

RJ – In preparing for the hearings (including submission of any hearing Statement) you should focus on responding to my questions, raised in the published Matters and Issues Agenda for the relevant hearing session. I will lead the discussion and ensure that participants can express their concerns in their

own way, whilst remaining on topic. It is part of the Inspector's role to ensure that participants are not excluded from the examination process by technical language. You do not need to worry about the language of 'soundness' and the tests of soundness; that is a matter for me as the appointed Inspector in writing my Report. You should focus on expressing your concerns over the LDP in relation to the Matters and Issues identified.

- **Will your site visits include all allocated sites and all Alternative Sites?**

RJ – Yes, this will inform my understanding at the various hearing sessions.

- **On what basis do you determine whether or not the LDP is sound?**

RJ – You missed that part of the PHM, I will not repeat myself as the note of this meeting will be made publically available.

(Please refer to section 4 of this note, PPW, the LDP Manual and the Guidance Note for Participants which is available on the Examination website)

- **Will you consider whether the LPA's approach to development outside of settlement boundaries and their selection of sites is appropriate, or if they are too rigid in their criteria?**

RJ - Parts of the examination will look at the evidence relating to the spatial distribution strategy, the identified settlement boundaries, and the site selection process. There will also be a specific hearing on the approach to defining settlement boundaries. Finally, there will be site specific sessions. This tiered approach to the examination will provide the necessary information for a judgement to be made in relation to the soundness of the approach to settlement boundaries.

- **Can you explain the intended nature of the further written statements? Should they concentrate on responding to the LPA responses to representors?**

RJ – No, in preparing a hearing statement participants should respond directly to the Matters and Issues I have identified in the agendas. This will assist me in preparing for the session and will assist in focusing discussion at the hearings (and thereby ensure that the hearings run in an effective and timely manner).

- **The LPA are 'fobbing off' the public by failing to examine the 8000 submitted Alternative Site representations, will the Inspector ignore the representations?**

RJ – No, I will read all of the representations submitted. The LPA have a duty to follow the LDP Regulations, but the LDP is their plan and they have a duty to submit what they consider to be a sound plan. The LPA has today confirmed that it considers the LDP and its allocated sites to be sound. There will be no need for

me to consider including any of the Alternative Sites if I find that the submitted plan is sound. As already stated, it would be beyond my remit to insert an alternative site in order to 'improve' an otherwise sound plan. Part of my examination includes ensuring that the LPA have followed the correct procedures.

- **If 90% of residents in a particular settlement are opposed to the housing allocations proposed there, what weight will that carry?**

RJ - The content of all representations will be considered and attributed weight according to their merits. I will not be responding to individual representations however, but rather the main issues raised through my reading of the Plan and those main issues raised through representations.

- **Can we request that you visit neighbouring sites to those allocated, so you can assess likely impacts?**

RJ - If you have such a request please contact the PO. It will be at my discretion whether to accommodate such a request, but if I consider it would be helpful to me I will consider it.

- **Can we submit further evidence of a technical nature, i.e. Health Reports that the LPA refused to carry out?**

RJ - As a general rule I will not be accepting further written submissions unless they have been requested by myself (such as a hearing statement). If the information you refer to relates to something I have identified on a Matters and Issues Agenda, it may be accepted as part of a Hearing Statement. If it is not relevant, it is unlikely to be accepted. I would not wish to see full independent assessments submitted at this stage unless requested by myself.

- **I have not received a response to my deposit representation from the LPA, should I have?**

RJ - I understand that the LPA have responded to all representations. The summary of representation responses is available as part of the Examination Library. Please contact the LPA who can direct you to the relevant documents.

- **What arrangements are there for those members of the public who do not have access to the internet / prefer not to work electronically?**

RJ - The Examination Library is being made available for public view in hard copy. You will not be excluded from the process. Please contact the PO.

- **I have been left off the list of invitees to a particular hearing / I have been invited to the wrong hearing session, what should I do?**

RJ – Contact the PO. The lists of invitees are provisional, and it is important that all objectors to the LDP who have requested to be heard check that they have been invited to the correct hearing sessions.

- **I am preparing a Hearing Statement and I am confused by the referencing system the LPA has used for participants that is shown on the draft programme of hearings, who should I contact?**

RJ – If it is necessary to fully understand that reference number contact the LPA. However, the important thing to focus on is to ensure that your Hearing Statement answers the questions raised in the Matters and Issues Agenda for the relevant hearing session. If it is necessary to refer to your previous submission in a hearing statement you may do so.

- **Whilst the LDP is being examined, what are the implications for planning applications before the LPA / planning appeals before the Planning Inspectorate?**

RJ - These are separate processes to the LDP examination. The relevant decision makers have a duty to deal with those applications / appeal in a timely fashion. PPW gives guidance for decision makers relating to emerging plans. Any such applications or appeals are beyond my remit.

- **What are the implications for the LDP if permission is granted on application or appeal for one of the allocated sites whilst the examination is ongoing?**

RJ – It should be noted that I have no power to revoke a planning permission. Normally a planning permission lasts for 5 years from the date of the grant of permission. If it is not implemented within that period, it would lapse. The LDP plan period runs until 2026. Therefore, even if a site benefits from planning permission, it is still important that it is examined to ensure it forms a sound plan allocation. If a planning permission is in part implemented it would normally remain extant in perpetuity. If construction begins on a site, even if it is not found to be sound in terms of this Examination, that permission is secured and is beyond my jurisdiction.

- **Deposit representations were produced in 2013, what if we have new information / evidence?**

RJ - If you are participating in a hearing session and this new information is relevant to the Matters and Issues, you may include it in your Hearing Statement. However, any new evidence which is not related to the Matters and Issues or is unsolicited may be returned.

- **I wish to participate in a hearing, but do not want to give up a whole day of my time; are precise timings available?**

RJ – In exceptional circumstances there may be an opportunity to ensure that a particular matter on an agenda is dealt with at a certain time. If you have a problem in this regard please contact the PO. However, in the majority of cases, I shall work my way through the matters and issues identified on the agenda in the order in which they appear. There is no way to predict exact timings. Therefore, if you choose not to be present at the start of a hearing session and miss the matter which was of interest, you may have missed your opportunity to be heard. However, you would be welcome to leave the hearing once the matter to which you are concerned about has been discussed.

16. Close of Meeting

RJ – Does the LPA have anything further to add?

JR – Nothing further to add, except to mention that the Consultation Report (available in the Examination Library / on the website) contains the summary of Representations with relevant ID Numbers together with the Council's response.

RJ – Thank you. If anyone hasn't seen their response, please contact the LPA directly to request a copy. If there are no other matters to be raised, I would be grateful if you could make sure that you have signed the attendance list before you leave.

Thank you - and I look forward to meeting those of you that will be participating at the hearing sessions.

The Inspector formally closed the PHM at 11:15.

NB: In the interests of sustainability and efficiency, the Examination is being run as far as possible on an electronic basis and it is therefore important that all representors regularly check the Examination website for up to date information on the Examination process, as well as any revisions to the Hearing Sessions Programme and the agendas. All key documents will be published on the website. The Council is requested to ensure that the website is updated regularly. Anyone who requires a hard copy of a particular document should contact the Programme Officer.