

# Welsh Statutory Instrument 2005 No. 2839 (W.203)

## The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005

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#### 2005 No. 2839 (W.203)

#### TOWN AND COUNTRY PLANNING, WALES

#### The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005

<i>Made</i>	<i>11 October 2005</i>
<i>Coming into force</i>	<i>15 October 2005</i>

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The National Assembly of Wales ("the National Assembly"), in exercise of the powers conferred upon it by sections 62(4) and (5)(g), 63(3)(a), 63(7), 64(3), 69, 72(7), 76(2) and (3) and 77 of the Planning and Compulsory Purchase Act 2004 ("the Act")<sup>[1]</sup> and paragraph 5(2) of Schedule 4A to the Town and Country Planning Act 1990<sup>[2]</sup> and of all other powers enabling it in that behalf, hereby makes the following Regulations:

## PART 1

### GENERAL

#### **Title, commencement and application**

**1.** —(1) These Regulations may be called the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 and come into force on 15 October 2005.

(2) These Regulations apply in relation to Wales.

#### **Interpretation**

**2.** —(1) In these Regulations—

"address", ("*cyfeiriad*") in relation to electronic communications, means any number or address used for the purposes of such communications;

"adoption statement" ("*datganiad mabwysiadu*") means a statement—

(a) of the date on which an LDP is adopted;

(b) that a person aggrieved by the LDP may make an application to the High Court under section 113; and

(c) of the grounds on, and the time within which such an application may be made;

"by local advertisement" ("*drwy hysbyseb leol*") means by publication on at least one occasion in a local newspaper circulating in the whole of the area of the LPA;

"decision statement" ("*datganiad penderfynu*") means—

(a) a statement that the National Assembly has decided to approve, approve subject to modifications, or reject an LDP (as the case may be);

(b) where the National Assembly decides to approve an LDP, or to approve an LDP subject to modifications, a statement—

(i) of the date on which the LDP is adopted,

(ii) that a person aggrieved by the LDP may make an application to the High Court under section 113, and

(iii) of the grounds on, and the time within which such an application may be made;

"delivery agreement" ("*cytundeb cyflawni*") means the agreed community involvement scheme together with the agreed timetable referred to in section 63(1);

"deposit matters" ("*materion adneuo*") means—

(a) the title of the LDP;

(b) the period within which representations about the LDP must be made in accordance with regulation 16(2)(a);

(c) the address to which and, where appropriate, the person to whom representations (whether made by way of electronic communications or otherwise) must be sent in accordance with regulation 18;

(d) a statement that representations may be accompanied by a request to be notified at a specified address of the publication of the recommendations of the person appointed to carry out an examination under section 64 or the adoption of the LDP or both;

"disabled person" ("*person anabl*") has the meaning given by section 1(2) of the Disability Discrimination Act 1995[3];

"electronic communication" ("*cyfathrebiad electronig*") has the meaning given by section 15(1) of the Electronic Communications Act 2000[4];

"electronic communications apparatus" ("*offer cyfathrebu electronig*") has the meaning given by paragraph 1(1) of the electronic communications code[5];

"electronic communications code" ("*cod cyfathrebu electronig*") has the same meaning as in section 106(1) of the Communications Act 2003[6];

"general consultation bodies" ("*cyrff ymgynghori cyffredinol*") means—

(a) voluntary bodies, some or all of whose activities benefit any part of the LPA's area;

(b) bodies which represent the interests of different racial, ethnic or national groups in the LPA's area;

(c) bodies which represent the interests of different religious groups in the LPA's area;

(d) bodies which represent the interests of disabled persons in the LPA's area;

(e) bodies which represent the interests of persons carrying on business in the LPA's area; and

(f) bodies which represent the interests of Welsh culture in the LPA's area;

"initial consultation report" ("*adroddiad ymgynghori cychwynnol*") means the report of the LPA prepared pursuant to regulations 14 to 16;

"inspection" ("*arolygu*") means inspection by the public;

"LDP" ("*CDL*") means a local development plan;

"LDP documents" ("*dogfennau CDL*") means—

(a) the deposit LDP;

(b) the sustainability appraisal report;

(c) the initial consultation report;

(d) such supporting documents as in the opinion of the LPA are relevant to the preparation of the LDP;

"LPA" ("*ACL*") means the local planning authority;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"Ordnance Survey map" ("*map yr Arolwg Ordnans*") means a map produced by Ordnance Survey or a map on a similar base at a registered scale;

"person appointed" ("*person a benodwyd*") means a person appointed by the National Assembly under section 64(4) to carry out an independent examination;

"pre-deposit proposals documents" ("*dogfennau cynigion cyn-adneuo*") means the LPA's preferred strategy, options and proposals for the LDP and the implications of these, with earlier alternatives and implications made explicit, together with such supporting documents as in the opinion of the LPA are relevant to those documents;

"pre-deposit matters" ("*materion cyn-adneuo*") means—

- (a) the title of the LDP;
- (b) the period within which representations on the proposals may be made in accordance with regulation 16(2)(a);
- (c) the address to which and, where appropriate, the person to whom representations (whether made by way of electronic communications or otherwise) must be sent in accordance with regulation 16(2)(b);
- (d) a statement that any representations may be accompanied by a request to be notified at a specified address that the LDP has been submitted to the National Assembly for independent examination under section 64 and of the adoption of the LDP;

"relevant authority" ("*awdurdod perthnasol*") means—

- (a) an LPA;
- (b) a community council;

"site allocation policy" ("*polisi dyrannu safle*") means a policy which allocates a site for a particular use or development;

"site allocation representation" ("*sylw ar ddyraniad safle*") means any representation which seeks to change an LDP by—

- (a) adding a site allocation policy to the LDP; or
- (b) altering or deleting any site allocation policy in the LDP;

"specific consultation bodies" ("*cyrff ymgynghori penodol*") means the bodies specified or described in paragraphs (i) to (viii) of this definition;

- (a) the Countryside Council for Wales<sup>[7]</sup>,
- (b) the Environment Agency<sup>[8]</sup>,
- (c) insofar as the Secretary of State exercises functions previously exercisable by the Strategic Rail Authority, the Secretary of State,
- (d) the National Assembly,
- (e) a relevant authority any part of whose area is in or adjoins the area of

the LPA,

(f) any person—

(i) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003, and

(ii) who owns or controls electronic communications apparatus situated in any part of the area of the LPA (where known),

(g) if it exercises functions in any part of the LPA's area—

(i) a Local Health Board<sup>[9]</sup>,

(ii) a person to whom a licence has been granted under section 6(1) (b) or (c) of the Electricity Act 1989<sup>[10]</sup>,

(iii) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986<sup>[11]</sup>,

(iv) a sewerage undertaker,

(v) a water undertaker;

"sustainability appraisal report" ("*adroddiad arfarnu cynaliadwyedd*") means the report prepared pursuant to section 62(6)(b); and includes any environmental report required under the provisions of the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004<sup>[12]</sup> or any re-enactment thereof;

"Waste Strategy for Wales" ("*Strategaeth Wastraff Cymru*") means any statement which contains the National Assembly's policies in relation to the recovery and disposal of waste in Wales<sup>[13]</sup> and which is made under section 44A of the Environmental Protection Act 1990<sup>[14]</sup>.

(2) In these Regulations, unless otherwise stated, any reference to a section is a reference to that section of the Act and any reference to a regulation is a reference to that regulation in these Regulations.

**Scope of Regulations**

**3.** —(1) These Regulations have effect in relation to the revision of an LDP as they apply to the preparation of an LDP.

(2) Where—

(a) an LPA; or

(b) the National Assembly

has, in relation to the preparation of a local development plan, taken any step in relation to any regulation made under the provisions of Part 6 of the Act, that step is to be regarded as having been taken pursuant to the duties imposed on

the local planning authority or the National Assembly under that regulation, whether that step was taken before, on or after the day appointed for the coming into force of that regulation.

**Electronic communications**

**4.**—(1) Where, within these Regulations—

- (a) a person is required to—
  - (i) send a document, a copy of a document or any notice to another person,
  - (ii) notify another person of any matter; and
- (b) that other person has an address for the purposes of electronic communications;

the document, copy, notice or notification may be sent or made by way of electronic communications.

(2) Where, within these Regulations, a person may make representations on any matter or document, those representations may be made—

- (a) in writing; or
- (b) by way of electronic communications.

(3) Where—

- (a) an electronic communication is used as mentioned in paragraphs (1) and (2); and
- (b) the communication is received by the recipient outside that person's normal office hours, it will be taken to have been received on the next working day; and, in this regulation, "working day" means a day which is not a Saturday, Sunday, Bank Holiday<sup>[15]</sup> or other public holiday.

PART 2

PRELIMINARY

**Community Involvement Scheme Preparation**

**5.** The persons who are to be engaged in the preparation of a community involvement scheme for the purposes of section 63(3)(a) are those general consultation bodies as appear to the LPA as having an interest in matters relating to the development in the LPA's area.

**Content of Community Involvement Scheme**



**6.** A community involvement scheme must include within it the following matters—

- (a) a list of all those general and specific consultation bodies to be involved in the LDP procedure;
- (b) the principles of the LDP participation strategy to be adopted by the LPA;
- (c) the timing of, and the method by which—
  - (i) participation will occur at each stage of the LDP procedure, and
  - (ii) the LPA will respond to the participation process referred to in sub-paragraph (i);
- (d) details of how the LPA will use those responses at each stage in developing the content of its LDP.

### **Timetable Preparation**

**7.** The persons that must be consulted in the preparation of a timetable for the purposes of section 63(7)(a) are all the specific consultation bodies.

### **Content of Timetable**

**8.** The timetable must include all key dates—

- (a) specified in guidance made under section 75, which must include—
  - (i) a definitive date for each stage of the LDP procedure up to deposit stage, and
  - (ii) indicative dates up to adoption of the LDP,
- (b) for the preparation and publication of—
  - (i) the sustainability appraisal report, and
  - (ii) the annual monitoring report.

### **Delivery Agreement**

**9.** —(1) A delivery agreement must consist of the community involvement scheme (prepared in accordance with regulation 6) and the timetable (prepared in accordance with regulation 8) and must, in addition, be—

- (a) approved by resolution of the LPA prior to submission to the National Assembly for its agreement; and
- (b) submitted to the National Assembly for agreement on or before the date specified by guidance made under section 75.

(2) The National Assembly must respond within four weeks of receipt of the delivery agreement, unless it has, before the expiry of that period, notified the LPA in writing that it requires more time to consider the document.

(3) If before the end of the period mentioned in paragraph (2), the National Assembly has failed to respond to the receipt by it of the delivery agreement, it will be deemed to be agreed at the end of that period.

(4) Until such time as the National Assembly approves the delivery agreement, the LPA must not take any steps under regulation 15 to advertise its proposals.

(5) The LPA must keep the delivery agreement under regular review and any revision must comply with paragraph (1)(a) prior to being agreed with the National Assembly, and subject to paragraph (2) and (3).

**Availability of a Delivery Agreement**

**10.** —(1) Where a delivery agreement takes effect in accordance with regulation 9, an LPA must—

- (a) make a copy of the agreement available for inspection at its principal office during normal office hours, and
- (b) publish the agreement on its website.

(2) Where a revision to a delivery agreement takes effect under regulation 9, within 2 weeks of it taking effect, the LDP must incorporate the revision into the agreement made available for inspection and published under paragraph (1).

PART 3

FORM AND CONTENT OF LDP

**Form and content of LDP**

**11.** —(1) An LDP must contain a—

- (a) title which must—
  - (i) give the name of the area of the LPA for which the LDP is prepared, and
  - (ii) indicate that it is an LDP; and
- (b) sub-title which must indicate—
  - (i) the date of adoption of the LDP, and
  - (ii) where it is an emerging LDP, the stage and date of its publication.

(2) An LDP must contain a reasoned justification of the policies contained in it.

(3) Those parts of an LDP which comprise the policies of the LDP and those parts which comprise the reasoned justification required by paragraph (2) must be readily distinguishable.

### **Proposals Map**

**12.** —(1) The LDP must contain a map ("a proposals map") of the LPA's area and which must—

- (a) show the proposals for the development and use of land in its area;
- (b) be reproduced from, or based on, an Ordnance Survey map; and
- (c) show National Grid lines and reference numbers.

(2) For the purposes of this regulation, a proposal is a site specific policy.

(3) Policies for any part of the LPA's area may be illustrated on a separate map on a scale larger than a proposals map (an "inset map").

(4) Where an inset map is included in an LDP, the area covered by the inset map must be identified on the proposals map and the policies for that area must be illustrated on that inset map only.

(5) The title (and any sub-title) of an LDP must be set out on the proposals map and on any inset map contained in the LDP, and the proposals map and any inset map must show the scale to which it has been prepared and include an explanation of any symbol or notation used in the map.

### **LDP : additional matters to which regard to be had**

**13.** —(1) The matters (additional to those specified in sections 39 and 62(5) (a) to (f)) prescribed for the purposes of section 62(5) are—

- (a) any local transport plan, the policies of which affect any part of the LPA's area;
- (b) any other policies prepared under section 108(1) and (2) of the Transport Act 2000[[16](#)] which affect any part of the LPA's area;
- (c) the objectives of preventing major accidents and limiting the consequences of such accidents;
- (d) the need—
  - (i) in the long term, to maintain appropriate distances between establishments and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular natural sensitivity or interest, and
  - (ii) in the case of existing establishments, for additional technical measures in accordance with Article 5 of Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances[[17](#)] so as not to increase the risks to people;

- (e) the Waste Strategy for Wales;
- (f) any regional waste plan, the policies of which affect any part of the LPA's area; and
- (g) any local housing strategy, the policies of which affect any part of the LPA's area.

(2) Expressions appearing both in paragraph (1) and in Council Directive 96/82/EC (as amended by Council Directive 2003/105/EC[18]) have the same meaning as in that Directive.

(3) In paragraph (1)(a), "local transport plan" has the same meaning as in section 108(3) of the Transport Act 2000.

PART 4

LDP PROCEDURE

**Pre-deposit participation**

14. Before an LPA complies with regulation 15, it must, for the purpose of generating alternative strategies and options, engage—

- (a) each of the specific consultation bodies to the extent that the LPA thinks that the proposed subject matter of the LDP affects those bodies; and
- (b) such of the general consultation bodies as the LPA considers appropriate.

**Pre-deposit public consultation**

15. Before an LPA finally determines the content of a deposit LDP in accordance with regulation 17, it must—

- (a) make copies of the pre-deposit proposals documents and a statement of the pre-deposit matters available for inspection during normal office hours at—
  - (i) its principal office, and
  - (ii) such other places within its area as the LPA considers appropriate;
- (b) publish on its website—
  - (i) the pre-deposit proposals documents,
  - (ii) the pre-deposit matters,

(iii) a statement of the fact that the pre-deposit proposals documents are available for inspection and the places and times at which they can be inspected;

(c) send to those bodies identified under regulation 14(a) and (b)—

- (i) the LPA's pre-deposit proposals documents,
- (ii) such supporting documents as are relevant to the body to which the documents are being sent,
- (iii) notice of the pre-deposit matters,
- (iv) the statement in paragraph (b)(iii); and

(d) give notice by local advertisement of the—

- (i) pre-deposit matters,
- (ii) fact that the pre-deposit proposals documents are available for inspection and the places and times at which they can be inspected.

**Public Consultation Representations**

**16.** —(1) Any person may make representations about an LPA's pre-deposit proposals documents.

(2) Any such representations must be—

- (a) made within a period of 6 weeks starting on the day the LPA complies with regulation 15(a), (c) and (d); and
- (b) sent to the address and the person (if any) specified, pursuant to regulation 15(d).

(3) An LPA must consider any representations made in accordance with paragraph (2) before finally determining the content of the LDP proposals to be made available under regulation 17.

**Deposit of Proposals**

**17.** The LPA must—

- (a) make copies of the LDP documents, and a statement of the LDP matters, available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15(a);
- (b) publish on its website—
  - (i) the LDP documents,

(ii) the deposit matters, and

(iii) a statement of the fact that the LDP documents are available for inspection and of the places and times at which they can be inspected;

(c) send to each of the bodies identified at regulation 14(a) and (b), copies of—

(i) the deposit LDP,

(ii) the sustainability appraisal report,

(iii) the initial consultation report,

(iv) a list of such of the supporting documents as in the opinion of the LPA are relevant to the preparation of the LDP,

(v) notice of the deposit matters, and

(vi) the statement referred to in paragraph (b)(iii); and

(d) give notice by local advertisement of the—

(i) deposit matters, and

(ii) fact that the LDP documents are available for inspection and of the places and times at which they can be inspected.

### **Representations on deposit proposals of LDPs**

**18.** A person may make representations about an LDP by sending them to the address and the person (if any) specified, pursuant to regulation 15(d) within the period of 6 weeks starting on the day on which the LPA complies with regulation 17(a), (c) and (d).

### **Handling of representations: deposit**

**19.** —(1) This regulation does not apply to a site allocation representation.

(2) As soon as reasonably practicable after an LPA has received a representation on an LDP under regulation 18, it must—

(a) make a copy of the representation available at the places at which the pre-deposit proposals documents were made available under regulation 15(a);

(b) where practicable, publish on its website details of all representations received together with a statement of how they can be inspected in accordance with regulation 15(a).

(3) An LPA need not comply with paragraph (2) if the representation is made after the period specified in regulation 18.

## **Handling of representations : site allocation representations**

**20.** —(1) This regulation applies to a site allocation representation.

(2) As soon as reasonably practicable after the expiry of the period in regulation 18, the LPA must—

(a) make a site allocation representation, and a statement of the matters in paragraph (3), available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15(a);

(b) publish on its website—

(i) where practicable, the site allocation representation,

(ii) the matters in paragraph (3),

(iii) a statement of the fact that the site allocation representation is available for inspection and the places and times at which it can be inspected;

(c) send to the bodies identified at regulation 14(a) and (b)—

(i) the address of the site to which the site allocation representation relates,

(ii) notice of the matters in paragraph (3),

(iii) a statement of the fact that the site allocation representation is available for inspection and the places and times at which it can be inspected; and

(d) give notice by local advertisement of—

(i) the matters referred to in paragraph (3),

(ii) the fact that the site allocation representation is available for inspection, and the places and times at which it can be inspected.

(3) The matters referred to in paragraph (2) are the—

(a) period within which representations on the site allocation representation must be made;

(b) address to which and, where appropriate, the person to whom—

(i) written representations, and

(ii) representations by way of electronic communications,

must be sent.

### **Representations on a site allocation representation**

**21.** —(1) Any person may make representations on a site allocation representation by sending them to the address and the person (if any) specified, pursuant to regulation 20(2)(b)(ii) within the period of six weeks starting on the day the LPA complies with regulation 20(2)(a), (c) and (d).

(2) As soon as reasonably practicable after an LPA has received a representation on an LDP under regulation 20, it must—

(a) make a copy of the representation available at the places at which the pre-deposit proposals documents were made available under regulation 15(a);

(b) where practicable, publish on its website details of all representations received together with a statement of how they can be inspected in accordance with regulation 15(a).

(3) An LPA need not comply with paragraph (2) if the representation is made after the period specified in paragraph 1.

### **Submission of LDP to the National Assembly**

**22.** —(1) An LPA must not submit the LDP to the National Assembly unless and until it has considered any representations made under regulations 18 and 21.

(2) The documents prescribed for the purposes of section 64(3) are—

(a) the sustainability appraisal report;

(b) the community involvement scheme;

(c) a consultation report setting out—

(i) which of the bodies they have engaged or consulted pursuant to regulations 14, 15, 17 and 20,

(ii) a summary of the main issues raised in those engagements, consultations and representations,

(iii) how those main issues have been addressed in the LDP,

(iv) the total number of representations received pursuant to each of regulation 16, 18 and 21,

(v) its recommendations as to how it considers the main issues raised in the representations received pursuant to regulations 18 and 21 should be addressed in the LDP,

(vi) its recommendations as to how it considers each of the representations received pursuant to regulations 18 and 21 should be addressed in the LDP, and



- (vii) any deviation from the community involvement scheme;
  - (d) a copy of the representations received pursuant to regulations 18 and 21; and
  - (e) such supporting documents as the LPA considers relevant to the preparation of the LDP.
- (3) Of the documents referred to in paragraph (2)(a) to (c) and (e)—
  - (a) four copies of each must be sent in paper form, and
  - (b) one copy must be sent electronically, provided that, in the case of documents mentioned or referred to in paragraph (2)(e), it would be practicable to do so.
- (4) Of the documents referred to in paragraph (2)(d), one copy of each must be sent in paper form.
- (5) The LPA must—
  - (a) publish a statement on its website that the LDP has been submitted for examination under section 64(1);
  - (b) give notice of the fact by local advertisement;
  - (c) make available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15(a) the documents referred to in paragraph (2)(c) and (e);
  - (d) publish the documents referred to at paragraph (2)(c) and, if practicable, (2)(e) on its website;
  - (e) give notice to those persons who requested notification when the LDP is submitted to the National Assembly, that it has been so submitted.

### **Independent examination**

**23.** —(1) At least six weeks before the opening of an independent examination under section 64, the LPA must—

- (a) publish the matters referred to in paragraph (2) on its website;
  - (b) notify any person who has made (and not withdrawn) a representation in accordance with regulation 18 or 21 of those matters; and
  - (c) give notice by local advertisement of those matters.
- (2) The matters referred to in paragraph (1) are the—

- (a) time and place at which the examination is to be held; and
- (b) name of the person appointed to carry out the examination.

(3) Before the person appointed to carry out the examination complies with section 64(7), that person must consider any representations made in accordance with regulations 18 and 21.

#### **Publication of the recommendations of the person appointed**

**24.** —(1) The LPA must comply with section 64(8)—

- (a) on or before the day on which the LDP is adopted; or
- (b) if the National Assembly gives a direction under section 65(1) or (4) after the person appointed has complied with section 64(7), as soon as reasonably practicable after receipt of the direction.

(2) When the LPA complies with section 64(8), it must—

- (a) make the recommendations of the person appointed, and the reasons given for those recommendations, available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15;
- (b) publish the recommendations and reasons on its website; and
- (c) give notice to those persons who asked to be notified of the publication of the recommendations of the person appointed that they have been so published.

#### **Adoption of an LDP**

**25.** —(1) The LPA must adopt the LDP within eight weeks of receipt of the recommendations and reasons given by the person appointed to carry out the examination unless otherwise agreed in writing by the National Assembly.

(2) When the LPA adopts an LDP, at the same time it must—

- (a) make available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15—
  - (i) the LDP,
  - (ii) an adoption statement, and
  - (iii) the sustainability appraisal report;
- (b) publish the adoption statement on its website;
- (c) give notice by local advertisement of the—

- (i) adoption statement,
  - (ii) fact that the LDP is available for inspection; and the places and times at which the document can be inspected;
- (d) send the adoption statement to any person who has asked to be notified of the adoption of the LDP; and
- (e) send four copies of the LDP and the adoption statement to the National Assembly.

### **Withdrawal of an LDP**

**26.** As soon as reasonably practicable after an LDP is withdrawn under section 66, the LPA must—

- (a) publish a statement of that fact on its website;
- (b) give notice of that fact by local advertisement;
- (c) notify any body to which notification was given under regulation 15(c) of that fact; and
- (d) remove any copies, documents, matters and statements made available or published under regulations 15(a) and (b), 17(a) and (b), 19(2)(a) and (b), and 20(2)(a) and (b); and
- (e) notify any person who has made (and not withdrawn) a representation in accordance with regulation 18 or 21 of this fact.

## **PART 5**

### **INTERVENTION BY THE NATIONAL ASSEMBLY**

#### **Documents to be supplied to the National Assembly**

**27.** An LPA must supply the National Assembly with a copy of every notice published by the LPA in accordance with these Regulations when the notice is first published, together with a copy of every document made available for inspection in accordance with these Regulations.

#### **Direction not to adopt an LDP**

**28.** —(1) Where, in relation to an LDP, the person appointed to carry out an examination under section 64 has complied with subsection (7) of that section, the National Assembly may at any time direct the LPA not to adopt that LDP until the National Assembly has decided whether to give a direction under section 65(1) or (4).

(2) If the National Assembly gives such a direction, the LPA must—

- (a) make the direction available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15;

- (b) publish the direction on its website;
- (c) not adopt the LDP until the National Assembly has notified the LPA of its decision under paragraph (1).

**Direction to modify an LDP**

**29.** If the National Assembly gives a direction under section 65(1) in respect of an LDP, the LPA must—

- (a) make the direction available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15;
- (b) publish the direction on its website; and
- (c) at the time it complies with regulation 25, publish and make available for inspection in accordance with that regulation—
  - (i) a statement that the National Assembly has withdrawn the direction, or
  - (ii) the National Assembly's notice under section 65(2)(b).

**Section 65(4) directions (call-in)**

**30.** —(1) This regulation, and regulations 31 to 35, apply where the National Assembly gives a direction under section 65(4).

(2) If the direction is given before the LPA complies with regulation 17—

- (a) the National Assembly must carry out an appraisal of the sustainability of the proposals in the LDP and prepare a report of the findings of the appraisal; and
- (b) the LPA must—
  - (i) make the direction available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15; and
  - (ii) publish the direction on its website; and
  - (iii) subject to any necessary modifications, and paragraph 4, comply with the regulations cited in paragraph (3) as if it were preparing the LDP.

(3) The regulations referred to in paragraph (2)(b)(iii) are regulations 15 to 21 and regulation 24 except paragraph (1) thereof.

(4) Nothing in paragraph (2)(b)(iii) requires an LPA to repeat any step taken before receipt of the direction.

**Changes proposed by the National Assembly to an LDP (call-in)**

**31.** —(1) If the National Assembly proposes to depart from the recommendations of the person appointed to carry out an examination under section 64, it must publish—

- (a) the changes it proposes to make; and
- (b) its reasons for doing so.

(2) As soon as reasonably practicable after the National Assembly complies with paragraph (1), the LPA must—

- (a) make copies of the changes and reasons and a statement of the matters in paragraph (3) available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15;
- (b) publish on its website—
  - (i) the changes and reasons,
  - (ii) the matters in paragraph (3),
  - (iii) a statement of the fact that the changes and reasons are available for inspection and the places and times at which they can be inspected;
- (c) send copies of the changes and reasons to the bodies referred to in paragraph (4) and notify those bodies of the matters referred to in paragraph (3); and
- (d) give notice by local advertisement of the—
  - (i) matters in paragraph (3),
  - (ii) fact that the changes and reasons are available for inspection; and the places and times at which they can be inspected.

(3) The matters referred to in paragraph (2) are—

- (a) the period within which representations on the changes must be made;
- (b) the address at the National Assembly to which and, where appropriate, the person to whom representations (whether made by way of electronic communications or otherwise) must be sent; and
- (c) a statement that any representations made may be accompanied by a request to be notified at a specified address of the National Assembly's decision under section 65(9)(a).

(4) The bodies referred to in paragraph (2)(c) are—

- (a) each of the specific consultation bodies to the extent that the National Assembly thinks the changes affect those bodies; and
- (b) such of the general consultation bodies as the National Assembly considers appropriate.

**Representations on proposed changes (call-in)**

- 32.** —(1) Any person may make representations on the changes the National Assembly proposes to make by sending them to the address and the person (if any) specified, pursuant to regulation 31(3) within the period of six weeks, starting on the day on which the National Assembly complies with regulation 31(1).
- (2) Before the National Assembly complies with section 65(9)(a), it must consider any representations made in accordance with paragraph (1).

**Publication of the recommendations of the person appointed to carry out the independent examination (call-in)**

- 33.** As soon as reasonably practicable after the National Assembly complies with section 65(6), the LPA must—
- (a) make the recommendations, and reasons for those recommendations of the person appointed to carry out the examination available for inspection during normal office hours at the places at which the pre-submission proposals documents were made available under regulation 15; and
  - (b) publish the recommendations and reasons on its website.

**National Assembly's decision after section 65(4) direction (call-in)**

- 34.** As soon as reasonably practicable after the National Assembly approves, approves subject to modifications, or rejects an LDP in accordance with section 65(9)(a) (as the case may be), the LPA must—
- (a) make available for inspection during normal office hours at the places at which the pre-submission proposals documents were made available under regulation 15(a)—
    - (i) the LDP and the reasons given by the National Assembly pursuant to section 65(9)(b), and
    - (ii) a decision statement;
  - (b) publish the decision statement on its website;
  - (c) give notice by local advertisement of the—
    - (i) decision statement,
    - (ii) fact that the LDP and the National Assembly's reasons are available for inspection and the places where and times when the

document and reasons can be inspected; and

(d) send the decision statement to any person who has asked to be notified of the National Assembly's decision under section 65(9)(a).

**National Assembly's default power**

**35.** Where the National Assembly prepares or revises an LDP under section 71—

(a) it must comply with such provisions of Part 6 of the Act and such provisions of these Regulations as—

(i) are relevant to the preparation of the LDP or revision, and

(ii) if references in those provisions to the LPA were references to the National Assembly; and

(b) regulations 31 to 35 apply, subject to any necessary modifications and as if references to an LPA were references to the National Assembly.

PART 6

JOINT LOCAL DEVELOPMENT PLANS

**Joint LDP: corresponding plans**

**36.** —(1) In relation to an agreement mentioned in section 72(1), the period prescribed for the purposes of section 72(7) is three months, starting on the day on which any LPA which is a party to the agreement withdraws from it.

(2) A corresponding LDP for the purposes of section 72(5) is an LDP which —

(a) does not relate to any part of the area of the LPA that has withdrawn from the agreement; and

(b) with respect to the areas of the LPAs which prepared it, has substantially the same effect as the original joint plan.

(3) In paragraph (2)(b), "original joint plan" means a joint LDP prepared pursuant to the agreement mentioned in paragraph (1).

PART 7

ANNUAL MONITORING REPORT

**Annual monitoring report**

37. —(1) An LPA must publish its annual monitoring report on its website and also submit it to the National Assembly on or before the date specified in guidance made under section 75.

(2) Where a policy specified in an LDP is not being implemented, the annual monitoring report must identify that policy.

(3) Where an annual monitoring report identifies a policy pursuant to paragraph (2), that report must include a statement of—

- (a) the reasons why that policy is not being implemented;
- (b) the steps (if any) that the LPA intend to take to secure that the policy is implemented; and
- (c) whether the LPA intends to prepare a revision of the LDP to replace or amend the policy.

(4) The annual monitoring report must specify —

- (a) the housing land supply taken from the current Housing Land Availability Study; and
- (b) the number (if any) of net additional affordable and general market dwellings built in the LPA's area

both in the period in respect of which the report is made; and in the period since the LDP was first adopted or approved.

PART 8

AVAILABILITY OF DOCUMENTS

**Availability of documents for inspection : general**

38. —(1) This regulation does not apply to an LDP or revision which is made available or published under regulation 39.

(2) Copies, documents, representations, directions, matters, notices or statements which under these Regulations are—

- (a) made available for inspection; or
- (b) published on an LPA's website,

may be removed at the time specified in paragraph (3).

(3) The time mentioned in paragraph (2) is the end of the period of six weeks referred to in section 113(4) (period for challenging the validity of a relevant plan) that applies as regards the LDP concerned.

**Availability of adopted or approved LDP**



**39.** —(1) Paragraph (2) applies where an LPA adopts, or the National Assembly approves, an LDP.

(2) As soon as reasonably practicable after the document is adopted or approved, the LPA must—

(a) make a copy of the LDP available for inspection at its principal office during normal office hours;

(b) publish the LDP on its website.

(3) Paragraph (4) applies where an LPA adopts, or the National Assembly approves, a revision of an LDP.

(4) As soon as reasonably practicable after the revision is adopted or approved, the LPA must incorporate the revision into the LDP made available for inspection and published under paragraph (2).

(5) Where the National Assembly revokes an LDP, the LPA must, within two weeks of the date on which the LDP was revoked—

(a) publish a statement of that fact on its website;

(b) remove the copy of the LDP made available for inspection and published under paragraph (2);

(c) take such other steps as it considers necessary to draw the revocation of the LDP to the attention of persons living or working in their area; and

(d) give notice of the revocation of the LDP by local advertisement.

### **Copies of documents**

**40.** —(1) Where—

(a) a person makes any document available for inspection under these Regulations;

(b) that document is not published pursuant to a requirement of Part 6 of the Act; and

(c) the person is asked by another person for a copy of that document,

the person first-mentioned must provide a copy of the document to that other person as soon as reasonably practicable after receipt of that other person's request.

(2) Any person who provides a copy—

(a) under paragraph (1); or

(b) of any document pursuant to a requirement under Part 6 of the Act,

may make a reasonable charge for the copy.

## PART 9

### REVIEW OF LOCAL DEVELOPMENT PLAN

#### **Review of LDP**

**41.** An LPA must commence a full review of its LDP every four years from the date of its initial adoption, in accordance with regulation 3(1).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[[19](#)].

*D. Elis-Thomas*

The Presiding Officer of the National Assembly

11 October 2005

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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Part 6 of the Planning and Compulsory Purchase Act 2004 ("the Act") establishes a new system of local development plans ("LDPs") in Wales. These Regulations make provision for the operation of that system.

The Regulations prescribe the form and content of LDPs (to be prepared by local planning authorities ("LPAs")) (Part 3 of these Regulations) and make provision for the procedure to be followed in their preparation (Part 4 of these Regulations).

The main steps in the LDP making procedure are—

- (a) the delivery agreement consisting of the community involvement scheme and the timetable for preparation of the LDP (Part 2 of these Regulations);
- (b) pre-deposit participation (regulation 14);
- (c) pre-deposit public consultation (regulation 15);
- (d) making and consideration of representations (regulation 16);
- (e) deposit of proposals (regulation 17);
- (f) making and consideration of representations on proposals (regulations 18 to 20);

- (g) representations on site allocation representations (regulation 21);
- (h) submission of deposit LDP for examination to the National Assembly for Wales ("the National Assembly") (regulations 22 and 23);
- (i) publication of the recommendations of the person appointed to carry out the examination (regulation 24); and
- (j) adoption of the LDP by the LPA (regulation 25).

There are also provisions about how different forms of representation on an LDP are to be handled (regulations 19 and 20), about the withdrawal of an LDP (regulation 26) and the intervention of the National Assembly in the LDP preparation process (including provisions about LDPs which the National Assembly has directed must be submitted for its consideration) (Part 5 of these Regulations).

The Regulations make provision for the preparation of joint LDPs (regulation 36), require an LPA to review its LDP every four years (Part 9), permits electronic communications (regulation 4) and make provision in relation to the availability of documents (Part 8).

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*Notes:*

[1] 2004 c.5. As to powers to prescribe, *see* section 122(1).[back](#)

[2] 1990 c.8. Schedule 4A was inserted by Schedule 1 to the Planning and Compulsory Purchase Act 2004.[back](#)

[3] 1995 c.50.[back](#)

[4] 2000 c.7.[back](#)

[5] The definition of "electronic communications apparatus" has been inserted into paragraph 1(1) of the electronic communications code by paragraph 2(2) of Schedule 3 to the Communications Act 2003 (c.21).[back](#)

[6] 2003 c.21.[back](#)

[7] *See* section 1(1) of the National Parks and Access to the Countryside Act 1949 (c.97), as substituted by the Environmental Protection Act 1990 (c.43), section 130 and Schedule 8, paragraph 1 and as amended by S.I. 1999/416.[back](#)

[8] *See* section 1(1) of the Environment Act 1995 (c.25).[back](#)

[9] *See* section 16BA of the National Health Service Act 1977 (c.49).[back](#)

[10] 1989 (c.29); section 6 was substituted by the Utilities Act 2000 (c.27), section 30.[back](#)

[11] 1986 (c.44); section 7 was substituted by the Gas Act 1995 (c.45) and section 7(2) was amended by the Utilities Act 2000 (c.27), sections 3(2), 76(1) and (3) and Schedule 6, paragraphs 1 and 4.[back](#)

[12] S.I. 2004/1656.[back](#)

[13] Wise about Waste: The National Waste Strategy for Wales, June 2002.[back](#)

[14] 1990 c.43.[back](#)

[15] Banking and Financial Dealings Act 1971 (c.80), section 1(1) and schedule 1, paragraph 1.[back](#)

[16] 2000 c.38.[back](#)

[17] O.J. No. L10, 14.1.1997, p.13.[back](#)

[18] O.J. No. L345, 31.12.2003, p.0097-0105.[back](#)

[19] 1998 c.38.[back](#)

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*Prepared 19 October 2005*