



Appendix 7
LDP(1)
Inspectors'
Preliminary
Findings

Wrexham County Borough Council Local Development Plan EXAMINATION

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INSPECTORS' PRELIMINARY FINDINGS

1. INTRODUCTION

- 1.1 During the opening week of hearings several potentially significant concerns emerged in relation to aspects of the Plan, particularly in relation to housing. This preliminary report has been produced to inform the Council of the seriousness of our concerns in order that the Council may consider their implications and reach an informed decision on how it would wish matters to be progressed. These preliminary findings have been informed by all the duly made representations that are before the Examination and the evidence submitted in relation to Hearing Sessions 1 to 6 held between 25 and 27 January 2012.
- 1.2 When considered individually some of the concerns identified are potentially so serious that they may undermine the soundness of the Plan, others, when considered in isolation, may be capable of being addressed through changes to the Plan. However, the number and extent of changes already identified and the likelihood that several others would arise in relation to the postponed sessions, indicate that the necessary changes may go beyond that which can be reasonably introduced at this stage in the Plan preparation process. The extent of these changes also raises concerns regarding the time implications that would be required to enable the Council to prepare and draft the necessary alterations during the course of the examination (see Section 9 of Examining Local Development Plans, Procedure Guidance – The Planning Inspectorate Wales, 2009).
- 1.3 An additional concern is the failure of the Council to empower its representatives at hearing sessions to suggest any changes to the Plan in response to identified shortcomings. The absence of any delegated powers vested in officers representing the Council frustrates the ability of the sessions to seek to resolve even fairly minor matters. The Council were advised of the need to secure delegated authority at the Pre-Hearing Meeting.
- 1.4 Sections 3, 4 and 5 of this report detail the fundamental concerns that have arisen, whilst section 6 outlines the other significant concerns that have been highlighted in the first week's hearing sessions. Potentially significant matters relating to sessions that have not yet been heard are set out in section 7, followed by concluding comments in section 8.
- 1.5 The Inspectors' approach from the outset has been to work with all parties towards achieving a sound Plan which could be recommended to the Council for its adoption. However, in light of the evidence which is now available it is the Inspectors' initial finding that the extent of the concerns identified in this report indicates that this may not be

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achievable. The Exploratory Meeting has been arranged to enable the available options to be discussed with the Council.

2. Summary of the Main Findings

- 2.1 The main findings in this preliminary report concentrate on the topics covered during the opening week's hearing sessions. Other potential concerns are also mentioned but the comments in this respect are qualified by the fact that they have not yet been subject to oral examination at a hearing session. For this reason these matters are referred to as 'Other Potentially Significant Concerns'.

Fundamental Concerns

- A significant shortfall in the supply of housing which, if it were to be addressed, would undermine the strategy of the Plan of confining general housing to within settlement boundaries.
- A failure to take reasonable steps to secure an appropriate supply of affordable housing.
- A lack of suitable provision to meet the needs of the gypsy and traveller community.
- A failure in the Plan to respond to its own evidence base.
- An incoherent use of evidence e.g. short and long term trends used inconsistently to justify low housing figures.
- That cumulatively the changes that would be likely to be required would go beyond those which should be necessary to secure a sound Plan within a timely fashion, taking account of the potential need for an Appropriate Assessment and a Strategic Environmental Assessment/Sustainability Appraisal.

Other Significant Concerns

- The overall level of growth proposed by the Plan may lack sufficient ambition in terms of strengthening Wrexham's role as a key hub as envisaged in The Wales Spatial Plan 2008 Update.
- General lack of phasing throughout Plan.
- General lack of clarity and certainty within policies in relation to, amongst other matters, the definition of terms used, development densities and commuted sums.
- A lack of prioritisation in relation to planning obligations i.e. affordable housing versus infrastructure, open space etc.
- Some policies lack effect, are unduly onerous, pull in the opposite direction to their intended objectives, and contain drafting errors.
- A lack of flexibility in the Plan, in particular overly rigid policies.
- The Plan does not make adequate provision in response to the introduction of the Community Infrastructure Levy in 2014.
- The flow and understanding of the Plan is hampered by a lack of cross references to national policy.

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- There is over-dependence on supplementary planning guidance (SPG) to deliver policy, with no clarity of proposed content or timescales for their preparation leading to a likely absence of essential guidance between adoption of the Plan and the Council's adoption of its various SPGs.
- Some monitoring indicators are unclear and are therefore likely to be ineffective.

Other Potentially Significant Concerns

- The approach to the protection of the natural environment fails to reflect the relative significance of international, national and local designations.
- The approach to green wedges does not have adequate regard to national policy.
- The Plan's approach to growth in the employment and retailing sectors does not reflect the Wales Spatial Plan's desire to see the strengthening of Wrexham as a key hub.
- Concern that the allocation of employment land has not sought to meet the likely future demand from the high technology sector which has been identified as having the greatest potential to grow.
- Concern that the envisaged scale of growth in the employment sector may be hampered by the limited pool of suitably skilled workforce that would be likely to result from the Plan's more restrictive approach to housing growth.
- Concern that the proposed imbalance between the scale of employment and housing growth may lead to employees commuting into the County to work, thus limiting the economic benefits to the area and increasing car borne journeys.

3. HOUSING NEED AND SUPPLY

- 3.1 These matters were the subject of Hearing Sessions 3 and 4 held on 26 January 2012.

National Planning Policy

- 3.2 Planning Policy Wales Edition 4 February 2011 (PPW) confirms in paragraph 9.2.2 that the latest Welsh Government (WG) local authority level Household Projections for Wales should form the starting point for assessing housing requirements. It also states that: '*Local planning authorities should consider the appropriateness of the projections for their area, based on all sources of local evidence, including the need for affordable housing identified by their Local Housing Market Assessment*' and: '*Where local planning authorities seek to deviate from the Assembly Government projections, they must justify their own preferred policy based projections by explaining the rationale behind them*'.

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- 3.3 Paragraph 9.2.1 of PPW sets out the matters which local authorities should take into account and which may justify deviating from the Government Projections. These matters include, amongst other things, the capacity of an area in terms of social, environmental and cultural factors. Paragraph 9.2.3 sets out the requirement on local planning authorities to ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing.

Housing Figures in the Plan

- 3.4 The Council's Background Paper 5, Population, Household Growth and Housing Numbers, Updated September 2011 (BP5), explains that that the proposed level of housing to be provided by the Plan will provide sufficient homes to accommodate the projected demographic increase (births/deaths and household formation trends) set out in the latest (2008 based) WG projections, and to meet 60% of the projected increase arising from migration trends (both international and from within the UK).
- 3.5 During the hearing sessions the Council accepted that the 8065 figure set out in Policy SP3 represents the target number of houses which are required to meet the identified need. Although it was acknowledged that this figure when originally calculated represented the supply figure and included an element of slippage, the Council had subsequently accepted that 8065 should be the target figure. Accordingly it was agreed that to meet this figure the Plan should provide an additional 10% supply figure in line with the accepted contingency for slippage. Thus, notwithstanding that the Council's officer could not agree to revised figures without prior consultation with the Planning Policy Panel, it is the Council's position that the figure in Policy SP3 should read 8870 (rounded-off figure). On this basis the Plan has a shortfall in its provision of new housing of 805 units. The Council confirmed that it has not identified a list of reserve sites upon which it could rely in the event that the Examination revealed a requirement for additional sites.

Housing Need

Population Trends and Calculations

- 3.6 The calculation of housing need in the Plan originated from the WG's 2003 household projections for North Wales which was apportioned between authorities by the North Wales Population and Housing Research Group which produced population and household projections in 2005. This identified a requirement for 6300 homes in Wrexham County Borough. Following publication of the first WG household projections specific to the County which were based in 2006 and published in 2009, it was decided that the Plan should provide for an increase in the number of houses from the figure of 6300 set out in the preferred

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strategy, to a revised policy figure of 8065¹. The Plan was prepared prior to the publication of the WG's 2008 based household projections, but this data was used to inform the update to BP5. The Council describes the change between the 2006 and 2008 data as modest, accounting for an increase of 360 in the number of houses needed.

- 3.7 The 2008 projection figures extend over the period 2008-2023. During a hearing session there was agreement that using the mid year estimates for the first 2 years of the Plan (2006-08) combined with an adjustment based on the annual rate of growth derived from the Projection multiplied by the remaining number of years (2008 to 2021 = 13 years) would result in the requirement for 11,786 homes over the Plan period when an allowance for a vacancy rate of 4% and a 10% increase on that total to provide for slippage is included. This total equates to an annual rate of 786 units, compared with the corresponding figure provided by the Plan of 538.
- 3.8 The Council has referred to past build rates in the County over the last 14 years of some 400 dwellings per annum², which was well above the rate provided by the UDP. The lifespan of the UDP ended in 2011 and its housing provision has been built out.
- 3.9 Despite arguing that the 2008 projections are not a reliable indication of the future requirement for new housing the Council has not undertaken its own statistical-based analysis of household projections. It could have chosen to run the WG statistical model itself as a means of testing the effect of inputting different assumptions but has not done so, explaining that it had experienced difficulties in obtaining the model. Thus, whilst the Council has sought to undermine the reliability of the WG Projections it was unable to provide any alternative figures.
- 3.10 The Council confirmed that it did not dispute the figures regarding natural change in population or the household formation rates. Its main reasons for not accepting the projection figures are that the assumed rates of domestic and overseas migration into the County are based on past rates that are considerably higher than it predicts will occur in the future. Both of these contentions are summarised and considered below:
- i) *Rates of immigration over the past 5 years provides an unreliable indicator of future rates* – Overseas migration accounts for a relatively modest proportion of the annual increase. The Council contends that a projection of immigration rates based on the past 5 years is unreliable given that the early part of the period saw unprecedented rates of immigration into Wrexham from Eastern Europe, particularly from Poland. The Council predicts that such rates will not occur in the future. However, it was accepted at the hearing

¹ BP5 6.3.3

² BP5 6.5.18

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that the annual rate of immigration assumed by WG projections is similar to that identified in ONS figures cited by the Council (Figure 15, BP5). The Council also accepted that whilst there was anecdotal evidence that some of the Polish community had moved back to their homeland in recent years there was little reliable information available to suggest that immigration patterns over the Plan period would be significantly different to that predicted in the WG Projections.

- ii) *Past rates of in-migration have been unduly influenced by the movement of people from Cheshire West and Chester Council (CWAC) which is a trend that will not continue.* A cornerstone of the Council's case in seeking to reject the WG projections is its assumption that past trends of in-migration from within the UK would drop markedly. This contention was based on an anticipated change in planning policy which would see the presently restrictive approach to housing in the neighbouring CWAC being replaced with a strategy that would see, in broad terms, that county meeting its own housing needs. Again no analysis has been made of the proportion of in-migration generated from CWAC as distinct from other neighbouring authorities and further afield. It was accepted that, given Wrexham's size and range of attractions and facilities, it is reasonable to expect that it would draw in-migrants from other parts of the region. The relatively cheap housing it provides when compared to CWAC could also mean that it may attract in-migrants even if house building rates increase in that County. In any event there are no figures available to suggest the likely effect on in-migration from the envisaged policy change. Moreover, the Council confirmed that the policy change would only have a direct effect on housing supply after the CWAC site allocation Development Plan Document (DPD) has been adopted. This would be no earlier than 2015, and even then the Council confirmed that some slippage was anticipated. In these circumstances, it appears that Wrexham would be unlikely to see any effect on in-migration from this anticipated change in planning policy until the later part of the Plan period.

- 3.11 In support of both the above contentions it is argued that the 5 year period on which the projections are based is an inappropriate timeframe on which to make reliable projections. However, the Council does not rely on an alternative time period, but suggests on the one hand that a 10 year period would enable peaks and troughs to be smoothed out whilst, elsewhere, the Council seeks to rely on trends over the past 2-3 years to suggest that the 5 year trend is an unreliable indicator of future patterns. During the hearing, WG explained that whilst there are drawbacks with using a 5 year period on which to base its projections, this was found to be the most suitable period following detailed consideration informed by extensive consultation. There is no reason to conclude that it is not the most suitable approach in this case.

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- 3.12 The Council has failed to justify departing from the latest WG Projections in the Plan's identified housing requirement. The available evidence indicates that the housing requirement for the County over the Plan period is 11786. This means that, given the Plan's failure to provide the 10% contingency in its housing supply which the Council accepts is required, the shortfall in the identified supply is 3721.

Environmental and Other Considerations

- 3.13 The Council considers that it should not provide this higher level of housing growth on the basis that it would cause an unacceptable impact on the environment and on the cultural character and social cohesion of communities. The Council's main arguments in support of this stance are summarised and addressed below:

- i) Environmental impact – Whilst an Urban Potential Study³ was commissioned by the Council, this focused on sites within settlements defined in the adopted Unitary Development Plan (UDP). Outside settlements, there has been no formal assessment of environmental impact. Nonetheless, as most alternative sites before the Examination fall outside settlements they are contrary to the Plan's strategy, and have been rejected as unsuitable by the Council for that reason. The Council considers that there is a strong landscape conservation reason for continuing to place controls over settlement expansion by retaining the settlement limits set out in the UDP. It says that this is demonstrated by its desire to safeguard Special Landscape Areas (SLAs), though at the hearing it did not dispute that such designations are commonly found throughout the country. Although part of County has recently been designated as an Area of Outstanding Natural Beauty, it was accepted at the hearing that there was no reason to believe that the character of the County was such that it could not accommodate any expansion of settlements.
- ii) Social/linguistic – The Council considers that excessive housing growth would lead to a large increase in the level of in-migration, which could damage community cohesion and demographic structure of the population. However, there is no evidence to indicate the nature of any impact that would arise from greater build rates. Moreover, there seems to be no acknowledgement that in this respect the restrictive approach may have a harmful effect on the ability of local residents to find homes that would enable them to continue to reside in their community.

- 3.14 Not only is there a lack of evidence to support the Council's position that further housing growth would cause unacceptable social and environmental impacts but there is no evidence that these perceived harmful effects have been weighed against the potentially detrimental impacts that would arise from restricting housing growth. It appears

³ Wrexham Urban Potential Study (ENTEC 2007)

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that the restrictive strategy has been a locally popular approach in response to concerns regarding high levels of migration into the County. However, the Council accepts that the Plan cannot directly influence migration patterns and that higher house prices and the availability of well paid jobs within easy commuting distance may mean that migration patterns continue, thus restricting the ability of local residents to access housing in their communities. This could have a seriously harmful impact on the local population and does not appear to have formed part of the Council's appraisal of the most appropriate housing supply figure.

- 3.15 The Plan identifies the provision of 'enough quality housing, including affordable housing' among its objectives. Whilst the Plan was prepared on the basis that it would meet its identified need for affordable housing, for reasons set out elsewhere in this report it is evident that this will not be the case. Restricting housing growth will limit the scope to secure affordable housing as a proportion of general market housing. This again suggests that the advantages of the Council's approach have not been weighed against the potentially detrimental impacts of such a restrictive approach to housing growth. The impact on delivery of affordable housing reinforces the need to provide housing at the level in line with the WG Projections.

Housing Supply

- 3.16 The identified supply of housing is comprised of various elements: existing commitments i.e. houses built, under construction or with planning permission (4885); sites allocated in the Plan (1925); 100% affordable housing sites on publicly owned land (345); and windfall sites (910). The 2010-11 Joint Housing Land Availability Study (JHLAS) (SDE03) is yet to be agreed but this provides updated information that indicates an increase in commitments but slippage in the number of units that would be delivered on the allocated sites and the 100% affordable housing sites, which was confirmed at the hearing sessions. The Plan's proposed housing supply is not supported by a trajectory of provision and there is little evidence to suggest a timely delivery of housing. Moreover, evidence from the house building industry raises concerns that many of the allocated sites will not come forward in the short term because of the particular challenges in developing brownfield sites in a difficult economic climate when lenders are risk averse in the face of potential unidentified abnormal costs. The evidence provided in the Entec Urban Potential Study (page 53) also indicates that for viability reasons a brownfield strategy would not provide a reliable source of supply.
- 3.17 It is also accepted that one of the largest site allocations, the Cefn Mawr former Flexsys site, will not come forward until at least 2016. Whilst the land owner is supportive and working positively with the Council, it appears that there may be significant obstacles (site remediation and an existing tenant) to the site's delivery within the lifetime of the Plan. A

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further hearing session had been scheduled to consider this and several other sites in greater detail in the light of concerns regarding their potential to provide the timely delivery of envisaged housing.

- 3.18 In terms of windfalls, whilst according to the Council the 910 figure identified in the Plan is a conservative estimate, there is some question over whether past trends are a reliable indicator given that the more viable brownfield sites may have already been developed. Indeed, the Urban Potential Study (pg 54) indicates that in Wrexham Town, it is possible that its brownfield development potential could be greatly eroded over the next 10 years. At the hearing the Council asserted that 'new' brownfield sites were likely to continue to become available over the Plan period, for instance as a consequence of public bodies releasing land for development as they seek to realise assets in response to straitened financial circumstances. However there is no evidence to indicate that this scale of windfall development would occur.
- 3.19 The Plan's proposed housing supply of 8065 would result in a shortfall of some 3721 when compared to the established need based on WG projections. This disparity converts to an annual figure of 248 houses over the Plan period. Given that several allocated sites are not likely to be delivered over the next 4 or 5 years, this suggests that the annual shortfall over this period would be markedly greater than 248 units. This concern on timely delivery is reinforced by the findings of the latest JHLAS which reveal that a notable proportion of sites identified in the Plan as commitments, and which contribute to the Plan's housing supply, are not expected to be developed in the next 5 years.
- 3.20 The Council has confirmed that, even though the Plan sought to provide a housing target which was significantly below the WG projections, it decided not to identify any potential additional allocations that could contribute to meeting any shortfall that may be identified during this Examination. Thus the identification of even a modest amount of additional sites would be a significant exercise for the Council which may require several months to undertake. Moreover, the Council confirmed that because of issues relating to the rate of water abstraction within an aquifer, a housing supply figure exceeding 9,000 homes would require an Appropriate Assessment to be undertaken as required by the Conservation (Natural Habitats &c) Regulations as amended.
- 3.21 In any event the scale of the additional housing, in relation to that currently proposed would call into question the whole strategy of the Plan. The Council accepted that delivering this scale of housing would require allocating sites outside settlement limits. Such an approach would conflict with one of the fundamental aims of the Plan's strategy, that being to confine development to within existing settlement limits⁴.

⁴ Para 5.23 Wrexham County Borough Council Local Development Plan 2006 - 2021

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Conclusion

- 3.22 For the reasons set out above, the available evidence suggests that the Plan fails to make adequate provision for additional housing over the Plan period. There are insufficient grounds to justify setting a level of growth that departs so significantly from the latest household projections, whilst the need to provide adequate housing for the County's population, including affordable housing, reinforces the appropriateness of providing new housing in line with these projections.
- 3.23 Concerns regarding the quantum of the shortfall between the Plan's housing target and that which would meet the projected need are exacerbated by potential difficulties in bringing allocated sites forward in a timely fashion. However, it is acknowledged that, as this issue has not been examined in detail, reaching a firm conclusion on this matter is not yet possible.

4. AFFORDABLE HOUSING

- 4.1 This topic was the subject of hearing session 6 held on 27 January 2012. The delivery of affordable housing is a priority for Welsh Government, and the Plan, at paragraph 6.9, recognises the 'need to maximise the provision of local affordable homes to satisfy future requirements'.
- 4.2 It is evident that the Plan was prepared on the premise that it would meet virtually all the identified need for affordable housing. Paragraph 5.38 of the Deposit Plan identifies the contributions expected from various sources of affordable housing supply and states that a total of 2165 units could be delivered which is described as 99% of the identified need of 2205.
- 4.3 The 2165 unit figure in the Deposit Plan includes a contribution of 'up to 640 from rural and urban village exceptions'. This exceptions site policy, P4, provides that 100% affordable housing schemes can be permitted outside settlement limits in certain circumstances. In response to representor criticisms that a similar policy in the UDP had failed to deliver any such housing, the Council decided to remove this element from the identified supply through Focussed Change FC08. This change also introduced the addition of approximately 165 affordable housing units from windfall schemes, and calculated that the amended supply of affordable housing units would total 1540, representing 70% of the projected need.
- 4.4 During the hearing session the Council accepted that this target figure, which is derived from a 2006 Housing Needs Assessment (EBH02) was now out-of-date and should be 2010 to reflect the findings of the 2009 Update to the Assessment (EBH03).

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- 4.5 In BP5 the Council explains that the shortfall in the Plan's supply of affordable housing identified at the Focussed Change Stage would be made up by other Council initiatives, in particular Homebuy and an initiative to bring empty homes back into occupation. During the hearing session the Council accepted that, even on the basis of public funding of such initiatives over the past 5 years, the likely contribution from such sources would account for only 285 additional units, which would be approximately 185 short of making up the deficit between the Plan's contribution of 1540 and the agreed need of 2010. The Council has identified future initiatives that will seek to maximise the return from public funding on affordable housing projects. Even so, in light of the likely continued pressure on public spending, the assumption that past levels of publicly funded delivery will continue seems highly unlikely. Thus, even allowing for the lower revised figure of need, the Plan when combined with publicly funded initiatives will not meet the identified need. Moreover, for reasons that are outlined below, it is clear that the level of contribution from the Plan's policies will fall significantly short of the envisaged 1540 units.
- 4.6 The Plan provides 3 sources of contribution to affordable housing: public sector owned sites (345 units); windfalls (165 units); and developer contributions on general market schemes (1030 units of which 58 were completed between 2006 and 2009). Each is examined in turn:
- i) Policy P5 makes provision for 345 units to be provided on 100% affordable housing schemes on identified sites. 147 of these have already been delivered. At the hearing it was accepted that in the light of further consideration of the likely capacity of each site, several of which have already been granted planning permission, that 271 units was a more realistic figure. It was also explained that one of the largest of these sites identified as providing some 41 units may not come forward given that the Council has not yet decided whether to release the site for 100% affordable housing, notwithstanding its allocation in the Plan. The Council confirmed that it has decided to allocate all its available funding for social housing to maximise the delivery of these sites but accepted that the future level of grant aid is less certain given public funding constraints.
 - ii) At Focussed Change stage the housing contribution from windfall sites was introduced to the housing supply figures. It is expected to provide 910 units of which 165 units would be affordable housing. Not only is there uncertainty regarding the delivery of this scale of windfall sites but, for reasons detailed in the next point, it is not likely that the envisaged level of contribution to affordable housing from market housing schemes will be achieved.
 - iii) The vast majority of the anticipated contribution to affordable housing provision is from general market housing allocations identified in Policy P1, and Policy P3 sets that contribution at 30%.

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For reasons detailed further on in this report, the provision at 30% is not viable in the present housing market and would not be so in the event of a 10% upturn in house prices. Indeed the evidence indicates that a 20% contribution would not be likely to be viable in such circumstances. There is no evidence of the likely viability of schemes at a lower rate of contribution.

- 4.7 Thus there is likely to be a shortfall in relation to each of the 3 sources of affordable housing contribution. The issue of viability is such that the shortfall in relation to allocated and windfall sites is likely to be considerable. This is examined in more detail in the following paragraphs.
- 4.8 Paragraph 6.7 of the Plan indicates that economic viability will be taken into account in determining the provision of affordable housing on any given site. It goes on to state that only in exceptional circumstances where viability is genuinely threatened as a result of unforeseen costs (e.g. extraordinary site contamination and re-mediation) that the 30% requirement would be reduced. It was accepted at the hearing that this approach to viability fails to recognise that the viability of any scheme is critical to its delivery. There is a need to include within the Policy that consideration of viability can, where proven, justify departing from the required level of contribution.
- 4.9 Notwithstanding the scope to introduce an element of flexibility to the contribution requirement, it is necessary that the level of contribution is based on robust and credible evidence. It was generally accepted at the hearing that, given the importance of providing affordable housing, the proportion of contribution sought should be challenging and should not be purely based on the present difficult economic climate. On the other hand setting too high a level of contribution would be counter productive in that it would deter developers from considering schemes in the County. In the event of a marked upturn in the housing market the monitoring framework should trigger a timely review of the Plan to secure higher contributions if justified by changing circumstances. Establishing a realistic contribution figure is also necessary to establish the likely delivery of such housing over the Plan period.
- 4.10 The evidence base which supports the viability of the 30% requirement is the DVS Viability Study (EBH06) produced in September 2009 and a second report (EBH08) in October 2010.
- 4.11 Representatives of house builders at the hearing considered that some assumptions used in the original DVS report over-estimated viability, including the percentage of developer profit that ought to have been factored into the appraisals taking into account the requirements of financial institutions when deciding to fund schemes. In its second report the DVS acknowledges certain limitations in terms of its viability appraisal, however the Council did not commission any further work on

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this topic. The hearing confirmed that there are a series of considerations that indicate that the viability assessment is overly optimistic, the main ones are listed below:

- i) Out of 18 sites assessed 5 or 6 are greenfield sites. This is not representative of the 84% brownfield site allocations of the Plan which is significant given that the study indicates that the greenfield sites were generally shown to be more viable than brownfield.
- ii) The assessment does not take into account additional construction costs that will arise once Part L of the Building Regulations is amended to require a higher standard in terms of the Code for Sustainable Homes. Whilst there was no agreement at the hearing on the likely amount of increased costs, there was agreement that some additional allowance was appropriate given that this requirement will be introduced next year.
- iii) The appraisal did not take into account additional costs arising from planning obligations. Although the DVS report explains that it was its understanding that affordable housing contributions would take priority over any other planning obligation contributions, it was accepted at the hearing that the Plan makes no such provision. The Council acknowledged that some contributions required to directly facilitate the site's development, such as off-site highway or drainage improvements, would feature ahead of affordable housing.
- iv) The finding that schemes would be viable was predicated on a 10% upturn in housing values, which the DVS considered in its 2010 Report could be reasonably expected to occur in 3 to 4 years. The HBF refers to research undertaken by Savills in 2011 which concluded that house prices in Wales are not likely to increase by more than 0.5% by 2015. There is no evidence to suggest that this is not a realistic prediction, particularly given the current state of the economy.

4.12 Notwithstanding the limitations of the study, it established that on the basis of house values at the time of the assessment 15 out of 18 sites were unviable even with a reduced contribution of 20%. The DVS's second report accepts that at the time of the 2009 study the data did not support a 20% target.

4.13 At the hearing the Council suggested that a target of 25% may be more realistic on the basis that this is the UDP requirement, but accepted that this was not supported by the only available detailed evidence which has been presented on viability. It agreed to consider asking the DVS to undertake an assessment of viability on the basis of a contribution below 20%, which is the lowest figure in the DVS study.

4.14 It is acknowledged that the services of a recently appointed Rural Housing Enabler Officer may encourage some take-up of the

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exceptions sites policy, and that its wording could be altered to make it more accommodating of such development. Even so any contribution would not be likely to markedly reduce the anticipated shortfall in provision.

Conclusion

- 4.15 It is evident that the combined contribution to the supply of affordable housing from the Plan and other initiatives will fall considerably short of the identified need. Whilst it is accepted that present economic conditions make the delivery of sufficient affordable housing a challenging prospect, there is no evidence that the Plan has been devised to maximise the Plan's potential contribution to delivery.
- 4.16 The Council has sought to emphasise that other priorities have driven the Plan's strategy but it appears that there are 2 significant elements of the strategy that militate against maximising affordable housing delivery – firstly, the reliance on brownfield which tends to be more expensive, or at least more difficult, to develop; and secondly, the restrained level of general market housing growth which places a higher pro rata burden on each market housing unit to contribute to meeting the need for affordable housing.
- 4.17 There is no evidence that in choosing its strategy that the benefits of a mainly brownfield approach have been properly assessed and balanced against a shortfall in the delivery of affordable housing. Indeed it appears that in adopting an overly optimistic view of the likely capacity of the Deposit Plan to deliver in this respect, the necessary exercise of balancing conflicting objectives was not undertaken. Once it was realised that there would be some shortfall it was decided to rely on using public funds to make up the gap rather than seeking to make changes to the Plan which would maximise potential delivery. It is now apparent that this initiative will not make up the shortfall between the Plan's target supply and the identified need. Even more significant is the likelihood that the Plan will fall well short of its delivery target given that it has not been informed by a realistic understanding of the limitations imposed by economic viability considerations.

5. GYPSY AND TRAVELLER PROVISION

- 5.1 This topic was examined at hearing session 5 held on 27 January 2012. A Gypsy and Traveller Accommodation Assessment (EBG+T01) was produced in 2007 and updated by the Gypsy and Traveller Potential Sites Study (EBG+T02) in 2008. These documents comprise the Council's evidence base in relation to this topic.
- 5.2 The 2008 Study identified a need for 15 pitches up to 2013 and an additional 12 pitches post 2013 and refers to the existence of one

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unauthorised encampment. The Council confirmed that this unauthorised site at Rossett continues to be occupied by 5 families with legal proceedings well advanced to secure their displacement.

- 5.3 The Council has referred to the Study identifying a 'possible' need post 2013 but it was unable to explain the basis for this qualification of the need other than to contend that predictions beyond 5 years introduce too significant an element of uncertainty caused by the fluidity of family arrangements. However, this approach fails to acknowledge that the Study considered such difficulty and calculated need beyond the 5 year period by applying a growth rate to the base population. The Study's figure of need is based on an assumption that growth proceeds at a rate of 3.9% (which the report states is used by the Department of Communities and Local Government) whereas it identifies the historic growth within the County as 6.25%. Using this higher percentage would have resulted in a requirement for a further 9 pitches.
- 5.4 Circular 30/2007: Planning for Gypsy and Traveller Caravan Sites requires local planning authorities to allocate sufficient sites in LDPs to ensure that identified pitch requirements for residential and transit use can be met. At paragraph 24 it explains that exceptionally, where an authority is 'unable to meet all assessed future needs through specific site locations' the LDP should give a 'reasoned explanation why that has not been possible. It must explain what criteria will be used to ensure adequate provision and state the detailed measures it will take to ensure that adequate provision is made during the plan period.'
- 5.5 Policy P10 makes provision for 15 pitches to meet the need until 2013 by allocating land to enable an extension to an existing site at Ruthin Road. This allocation fails to recognise that the 2008 Study refers to shortcomings identified by the gypsy and traveller community in relation to this site in terms of its poor accessibility to nearby settlements and to public transport. Representations to the Plan identify other concerns including that, as the site is perceived to be an Irish Travellers' site, many Romany Gypsies are fearful that moving onto the site would lead to social tensions and potential conflict whilst its proximity to a busy main road is seen as creating an unsuitable living environment. Its present vacancy rate (6 empty pitches) may reflect these concerns. Other identified drawbacks appear to have been addressed by the site's recent refurbishment.
- 5.6 The Plan makes no allocation to meet the identified need from 2013 to the end of the Plan period. There is no evidence to justify this decision other than the assertion that the study's findings are considered to be unreliable beyond a 5 year timeframe. The Council considers that a decision to review the Plan in 2013 provides a suitable mechanism for dealing with future need. Whilst such an approach clearly fails to meet the requirement for adequate provision during the plan period this shortcoming is compounded by the fact that no potential sites have

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been identified as suitable for allocation should the review reveal this to be necessary. This is particularly significant given that the acknowledged difficulties of identifying any new sites in terms of local opposition would be likely to severely hinder a prompt revision to the Plan.

- 5.7 Turning now to part 2) of Policy P10 which provides a criteria based element to the policy. The Circular identifies the requirement for a criteria based policy to enable future or unexpected demand to be met, and emphasises that criteria should be 'fair, reasonable, realistic and effective in delivering sites'. P10 includes an upper limit of 7 pitches that may be permitted over the Plan period. Whilst this limit appears to be based on the identified need in the Study for private site provision there appears to be no reason for imposing an upper limit on the number of pitches which could lead to the refusal of a planning application that would otherwise meet all the criteria of the policy. The Council's reliance on this identified level of need runs counter to its stance regarding the reliability of future predictions of need in relation to allocating sites.
- 5.8 The policy imposes a limitation of a single pitch on each site, preventing occupation by extended families which would frustrate the desire of the gypsy and traveller community to provide support across the generations which is an important aspect of gypsy culture. Such an arbitrary limit runs counter to the specific advice in Annex B of the Circular. Among the criteria of P10 is that proposals should not have a detrimental visual impact or be detrimental to the amenities of neighbouring properties. These criteria together with a requirement that the proposal is generated by 'local need' further indicate that the policy is unacceptably restrictive, and contrary to the advice in the Circular, including Annex B which provides examples of the types of requirements that should not be included in such policies. That the policy is so stringent is all the more inappropriate given the LDP's failure to allocate sufficient land for the Plan period.
- 5.9 The Plan makes no provision for transit sites on the basis that the Study identified no transit sites in occupation. However this does not take into account that the Study recorded past instances of unauthorised transit site encampments and found that the absence of such sites at that time did not indicate that such a need would not arise on occasions in the future. The Council has stated that the issue of transit site provision was being addressed at a regional level and during the hearing session it explained that a study had recently been completed but that the Council had not been apprised of its findings. In line with PPW the Plan should make appropriate provision if it is to minimise the potential for unauthorised encampments.

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Conclusion

- 5.10 The Plan fails to make reasonable provision to meet the identified needs of the gypsy and traveller community. Its approach fails to have proper regard to national policy and is likely to lead to future instances of unauthorised encampments which give rise to problems of poor living conditions for occupiers and lead to tensions between the settled and the traveller communities.

6. OTHER SIGNIFICANT CONCERNS

- 6.1 During the course of the first week's hearings a number of other concerns were raised by the Inspectors. Whilst this report does not identify every concern several are identified below in order to provide an indication of the scale of changes that would be required in order to address each one.
- 6.2 Wrexham is identified in the Wales Spatial Plan as a key hub which ought to be strengthened as a focus for investment in, amongst other sectors, housing. There is concern that the restrictive approach of the Plan to housing in particular fails to have regard to the Wales Spatial Plan.
- 6.3 The lack of information on phasing raises concerns with regard to the timely delivery of development over the remainder of the Plan period.
- 6.4 The limitations imposed by economic viability considerations will limit the potential contributions to infrastructure, affordable housing and community facilities. To appreciate the potential benefits that will arise from the envisaged scale of development, and to ensure a transparent decision-making process at planning application stage, the Plan should provide an indication of how conflicting priorities will be addressed. This could be incorporated within a revised Policy P13 and augmented by SPG.
- 6.5 The implications of the introduction of the Community Infrastructure Levy post 2014 on the ability to secure contributions from developers for necessary facilities and infrastructure has not been fully addressed.
- 6.6 Wording of policies: many policies lack sufficiently precise wording to ensure that they can be interpreted with reasonable consistency thereby undermining the Plan's coherence and effectiveness. Several policies are phrased as aspirations and would lack the necessary precision to ensure that they would be effective. There are also examples of policies which contain clear errors in drafting (in particular P15) and other policies which, as drafted, would have the effect of restricting a particular type of development rather than enabling it in line with the stated purpose (P9). Many policies provide no flexibility even though

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this would in practice be sensible e.g. to recognise viability considerations (P3 and P15), or to cease to protect a facility if there is no reasonable prospect that its use will resume (P12).

- 6.7 The Plan at paragraph 1.6 makes clear that national planning policy will also be used to determine planning applications, and rightly seeks to avoid re-iterating national policy. However, the very limited and general references in the Plan to national policy make it difficult to establish the relationship between the LDP and national policy in relation to specific matters. It was agreed that this could be clarified by specific references to elements of national policy throughout the Plan.
- 6.8 The Plan places undue reliance on supplementary planning guidance (SPG) which is at odds with the advice in LDP Wales. Many policies would need to be redrafted to ensure that they set out the criteria for planning decisions rather than delegating to SPG. Furthermore, the hitherto unspecified time lag between adoption of the Plan and the Council's adoption of a series of SPG documents would create a period where there could be an absence of sufficient guidance to properly inform decision making.
- 6.9 During the opening hearing session it was agreed that there was scope to further revise the monitoring framework to ensure that it would provide reasonable flexibility as well as triggering a timely review in the event that the Plan significantly fails to deliver.

7. OTHER POTENTIALLY SIGNIFICANT CONCERNS

- 7.1 The agenda for hearing session 7 identifies potential concerns with regard to the Plan's approach of dealing with all nature conservation interests in one general policy (SP10). This approach fails to reflect the different approaches that are required in relation to international, national or local designations. A clear cross-reference to relevant national policy⁵ may address this concern but there would also be a need to identify the different designations on the Proposals Map in line with LDP Wales, paragraph 2.24. Policy SP14 does not have sufficient regard to the detailed policy approach to green barriers set out in PPW. It is not clear whether the designations have been based on a formal assessment in line with national policy.
- 7.2 During the opening hearing session there was an acceptance by the Council that the Plan sought steady growth in the future following a period of significant growth in recent years. However, in the context of the regional importance of Wrexham, which is identified as a Key Business Sector Area in the Wales Spatial Plan, it is not clear whether the employment land allocations will cater for an appropriate level of growth. This raises the question of whether the Plan is sufficiently

⁵ TAN5: Nature Conservation and Planning

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ambitious in this respect, and in relation to other sectors of the economy such as retailing.

- 7.3 The County's traditional manufacturing base has been declining in recent years, a trend that is expected to continue whilst the high quality business sector is identified as having the greatest potential for growth. There are concerns that as the allocation of suitable land for high quality business is concentrated on one site only, the Western Gateway, that this will not maximise the opportunity of attracting new employers to the County. It is not clear whether the Plan's strategy and policies would encourage growth in high-tech industries within the County. It is also suggested that restricting housing growth would limit the number of workers available in the local pool of labour making it more difficult to attract investment from potential employers.
- 7.4 Another concern in relation to employment is that a restricted pool of suitable labour residing in the County may lead to workers being attracted to commute from outside the County. This would mean that much of the wealth generated by increased employment would be spent outside the County whilst also leading to an increase in car borne journeys which runs counter to promoting sustainable development which paragraph 5.6 of the Plan says underpins the LDP.

8. THE WAY FORWARD

- 8.1 The Inspectors are concerned that the matters raised in this report demonstrate that the LDP does not have regard to national policy (Soundness Test C2) or to the Wales Spatial Plan (Test C3), is not founded on a robust and credible evidence base (Test CE2) and is not reasonably flexible to deal with changing circumstances (Test CE4). There is also concern that the Plan does not set out a coherent strategy from which its policies and allocations logically flow (Test CE1).
- 8.2 In light of these concerns the Council is asked to consider the implications of the above and to provide a response. In doing so it should bear in mind the comments made by the Lead Inspector during the first hearing session that the examination should progress on the basis that the Council considers that it has submitted a sound plan. The scope to consider further changes to the Plan at this stage is limited, and must ensure that any change is consistent with the Plan's strategy and does not undermine the sustainability appraisal report or the public consultation process. It would also be necessary to consider any implications to the timely conclusion of the examination.
- 8.3 The Exploratory Meeting scheduled for 9:30am on 23 February 2012 will provide an opportunity for the Council to provide its response to the matters raised in this report. It is understood that both its Planning Policy Panel and Executive Board will have had the opportunity to

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discuss the content of this report in advance. It is anticipated that representatives of the Welsh Government will also be present.

- 8.4 The scope of the meeting will be strictly limited to discussing how best to move forward in light of the identified concerns. There will be no opportunity for the Council, or any one else, to comment on the merits of the Plan. The hearing sessions, based on the matters and issues that have already been identified are the only forum to examine the merits of the Plan and the representations that have been submitted in objection.
- 8.5 If the Council has any specific queries that it would wish to raise at the Meeting it would be helpful if prior notification is provided to the Inspectors via the Programme Officer which may enable a more considered response to be provided at the Meeting.