

Explanatory Memorandum to the Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021

This Explanatory Memorandum has been prepared by the Planning Directorate and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021.

Julie James
Minister for Housing and Local Government
22 March 2021

1. Description

1.1 The Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021 (“these Regulations”) establish the procedural requirements for the preparation, monitoring and review of Strategic Development Plans (“SDPs”).

1.2 These Regulations provide details about the key stages, procedures and consultation arrangements that must be followed by Corporate Joint Committees (CJCs) when preparing an SDP. They also include the preparation, examination, monitoring and revision requirements relating to SDPs and associated matters. They also make provision about the content, availability and publication of relevant documents.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

2.1 None.

3. Legislative background

3.1 Section 88 of, and Schedule 9 to the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”), amends the Planning and Compulsory Purchase Act (“the 2004 Act”) in relation to strategic planning provisions. These amendments include repealing the sections of the 2004 Act that provided for the production of SDPs by Strategic Planning Panels.

3.2 The 2021 Act makes provision for the creation of CJCs. CJCs have a number of functions, including preparing a SDP for their areas (see section 60M of the 2004 Act as inserted by the section 88 of, and paragraph 4 of Schedule 9 to, the 2021 Act).

3.3 Section 60M(2) of the 2004 Act provides that SDPs must set out the CJC’s objectives in relation to the development and use of land in its area and the CJC’s policies for the implementation of those objectives. Section 60M also sets out requirements which the CJCs must have regard to when preparing the SDP for their area.

3.4 These Regulations set out procedural requirements and other associated matters in relation to the preparation and review of SDPs. The 2004 Act (as amended) confers powers on the Welsh Ministers to make these Regulations. These

Regulations are made in exercise of the powers conferred upon the Welsh Ministers by the following provisions of the 2004 Act:

- Sections 122 (1), (2) and (3)
- Sections 60M(5) and (6)(f)
- Section 63(3)(a) and (7)
- Section 64(3)
- Sections 66A(6)(b), (8) and (9)
- Sections 69(1)(b) and (3)
- Sections 76(2) and (3)
- Section 77(1)

3.5 The functions of the National Assembly for Wales in sections 63, 64, 69, 76, 77 and 122 were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006, the functions being relevant Assembly functions as defined in paragraph 30(2).

3.6 These Regulations follow the negative procedure and are therefore subject to annulment by a resolution. They will come into force at the same time as the regulations conferring responsibility for strategic planning on CJsCs comes into force (28 February 2022).

4. Purpose and intended effect of the legislation

Background and purpose

4.1 Regulations to be made under the LGEWA will provide that CJsCs must prepare a SDP for their geographical area. The purpose of this legislation is to set out the plan preparation procedures that a CJC must follow when exercising this function.

Risks

4.2 If the SDP regulations are not made, CJsCs will be unable to exercise their strategic planning function and prepare a SDP. The regulations are required to implement and deliver on the strategic planning provisions of the LGEWA and associated Corporate Joint Committee Regulations 2021 (“CJC Regulations”).

Policy rationale

4.3 CJsCs provide a consistent framework to deliver a more simplified and consistent regional working arrangements across Wales. The policy intent in respect of SDPs is to introduce a more strategic approach to plan making at a scale greater than individual Local Development Plan (“LDP”). There is an identified need to improve

how the planning system addresses issues that cross local authority boundaries, to reflect how people live their lives today and in the future.

4.4 SDPs will enable a more consistent, cost effective and efficient approach to plan making, with key decisions taken once at the strategic level. This will allow larger than local issues such as placemaking, housing numbers, strategic market and affordable housing allocations, strategic employment sites, strategic green infrastructure supporting sustainable transport infrastructure which cut across a number of Local Planning Authority areas (LPAs), to be planned for in an integrated and comprehensive way. This will result in more efficient and effective planning outcomes for communities, and will be a more effective use of financial and staffing resources for LPAs.

Summary of provisions and their intent

4.5 A summary of the key stages of SDP preparation and provisions covered in the regulations is set out in paragraphs 4.6 to 4.11 as follows:

4.6 **Part 1** deals with general matters, including the application of the regulations, interpretation of terms and the use of electronic communications.
(regulations 1 to 3)

4.7 **Part 2** deals with preparation and revision of the SDP and makes provision in respect of the following:

- Chapter 1: The provision of documentation and the identification of consultation bodies (regulations 4 to 6)
- Chapter 2: The Delivery Agreement – this marks the formal start of SDP preparation and consists of the Community Involvement Scheme (CIS) which details when and how stakeholders will be engaged in the process and the timetable for preparing an SDP; (regulations 7 to 12)
- Chapter 3: The form and content of an SDP and associated matters which includes minimum content requirements for the SDP and associated maps, and sets out additional matters of which the CJC must have regard (regulations 13 to 15)
- Chapter 4: Pre - deposit procedure - which involves the formulation of initial proposals, a call for strategic sites and locations for consideration, and consultation, documentation, publication and engagement requirements in respect of those proposals (regulations 16 to 19)

- Chapter 5: The Deposit procedure – including consultation, documentation, publication and engagement requirements on the SDP, including provisions regarding the content of the initial consultation report (regulations 20 to 22)
- Chapter 6: Submission of the SDP for examination by a person appointed by Welsh Ministers – provisions setting out documentation, notification and publication requirements of the submission and examination and publication of the recommendations of the appointed person (regulations 23 to 25)
- Chapter 7: Invention by Welsh Ministers – procedures, publication and notification arrangements in the application of Welsh Ministers powers of intervention (regulations 26 to 32)
- Chapter 8: Withdrawal of the SDP - notification and publication procedures in respect of withdrawal of an SDP (regulations 33 to 34)
- Chapter 9: Adoption of the SDP by a CJC and approval by Welsh Ministers (regulations 35 to 37)

4.8 **Part 3** makes provision for the steps that must be taken following revocation of an SDP by Welsh Ministers (regulation 38).

4.9 **Part 4** makes provision for the review of an SDP every six years following adoption (regulation 39).

4.10 **Part 5** makes provision for the content and publication of an annual monitoring report (regulation 40)

4.11 **Part 6** makes provision for the requirements of the availability of documents (regulation 41).

5. Consultation

5.1 Consultation seeking views on the policy intent of the SDP Regulations was undertaken from 12th October 2020 to 04th January 2021. The consultation document explained that all responses received would be considered and enable Welsh Government to shape and finalise the SDP Regulations before they were formally published. A link to the consultation document can be accessed as follows:

[Establishing the Town and Country Planning \(Strategic Development Plan\) \(Wales\) Regulations 2021 | GOV.WALES](#)

5.2 The consultation was undertaken in parallel with the draft CJC Regulations. The two consultations complement each other, with one related to governance and operation of the CJC (CJC Regulations) and the other related to the plan preparation procedures (SDP Regulations).

5.3 The SDP consultation was drawn to the attention of a wide range of stakeholders including those likely to be directly impacted by the proposals, including LPAs individuals and organisations and special interest groups. The consultation generated 40 responses. The majority of responses were received from public sector organisations such as LPAs and Town and Community Councils.

5.4 The proposals put forward in the consultation paper were generally well received by respondents, with the majority citing their broad agreement for proposals to create a plan preparation process for SDPs that broadly mirrors the current LDP process. It is considered that the current statutory process works effectively and is generally well understood by all users of the system. On this basis, no substantial changes to the policy approach proposed was considered necessary.

5.5 Some comments received were outside the scope of the regulations to address, such as governance issues. In addition, many respondents raised valid comments which would be more appropriate for new and forthcoming guidance relating to the scope and policy content of SDPs. A summary of the consultation and government response will be published alongside this Explanatory Memorandum and can be found here:

<https://gov.wales/establishing-town-and-country-planning-strategic-development-plan-wales-regulations-2021>

6. Regulatory Impact Assessment (RIA)

6.2 These Regulations implement policies that have already been subject to substantive consultation and debate. These policies were considered in the Regulatory Impact Assessments for the Planning (Wales) Act 2015 (“the 2015 Act”) which gained Royal Assent on 6 July 2015. That 2015 Act amended the Planning Compulsory Purchase Act 2004 (PCPA) for the purpose of (amongst other things) introducing SDPs to allow for a more strategic approach to planning at a scale beyond a Local Development Plan (LDP).

6.3 The 2015 Act was supported by a detailed and comprehensive Explanatory Memorandum Regulatory Impact Assessment (EMRIA), which contained the costs of preparing SDPs. Attached below are links to the EMRIA and the supporting methodology paper. They conclude that the introduction of SDPs will lead to slimmer and more succinct LDPs, costing less and will be quicker to prepare. The 2015 Act

RIA concluded that there would be a significant cost saving of preparing an SDP and 'light touch' LDPs that will sit underneath them, compared to the current system of preparing LDPs only. The 2015 Act RIA also explains the impact on different stakeholders involved in the process.

Sections 7.42 – 7.93 of the EMRIA are the relevant sections relating to SDPs:

<https://gov.wales/planning-wales-act-2015-explanatory-memorandum>

Sections 4.0 to 4.51 of the methodology paper are the sections relevant to SDPs:

<https://gov.wales/planning-wales-bill-regulatory-impact-assessment-methodology-paper>

6.4 The LGEWA established a new statutory mechanism for regional collaboration and replaced the concept of an SPP, which had been the original delivery vehicle for SDPs under the 2015 Act, with a CJC. The CJC Regulations provide for the governance and operational framework for the CJC. A RIA was undertaken for the CJC Regulations which was published as part of the consultation of those regulations.

6.5 The CJC Regulations RIA used the 2015 Act RIA as the baseline and updated the 'historic' SDP preparation costs to current costs.

6.6 The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. On the basis of the above assessments already undertaken it was not considered necessary to carry out a further RIA. The conclusions in the above assessment remain valid.

6.7 The reader is directed to the RIA for the CJC Regulations, which contain the updated estimated costs for preparing SDPs. In particular (but not exhaustive) paragraphs 33-36, 48-53, and 108-120, relate to the plan preparation costs of an SDP. This can be accessed here:

<https://senedd.wales/media/blab2mmp/sub-ld14134-em-e.pdf>