

## REPORT FOR INFORMATION

<b>REPORT TO:</b>	All Members
<b>REPORT NO:</b>	COGC/69/24
<b>DATE:</b>	16 August 2024
<b>CONTACT OFFICER:</b>	Linda Roberts Chief Officer Governance & Customer
<b>SUBJECT:</b>	Local Development Plan Court Proceedings
<b>WARD:</b>	All Wards

### 1 PURPOSE OF THE REPORT

To inform Members of the current position in relation to court proceedings and the Local Development Plan.

### 2 INFORMATION

- 2.1 To recap, following the lengthy process of public examination the Planning Inspectors found Wrexham's LDP to be sound for adoption and submitted their final report in February 2023. The LDP was presented to Council on 19 April 2023 and the report (COEP/26/23) included an explanation of the statutory duties and risks in relation to decision making. Council voted not to support the recommendation to adopt.
- 2.2 Following that decision a consortium of developers started judicial review proceedings challenging the decision of the Council. Judicial review is a legal process for the court to check whether the Council acted lawfully and fairly in reaching that decision. The Welsh Ministers were also joined as an Interested Party to the court proceedings.
- 2.3 As a result of the judicial review proceedings and in an attempt to reduce legal costs for the Council, a second report (COGC/53/2023) on the LDP was presented to Council on 14 June 2023. Council again voted not to support the recommendation to adopt the LDP.
- 2.4 The Council complied with all the court directions and submitted all the required evidence for the hearing of the judicial review application on 29 November 2023. The legal position of the Council was fully set out in the court documents. The Council's legal team sought specialist legal advice throughout the process and court proceedings.

- 2.5 Mr Justice Eyre ordered that the Council decisions on 19 April and 14 June be quashed (officially rejected) and sent the LDP back to the Council for adoption. The court also ordered the Council to pay £100,000 legal costs to the developers.
- 2.6 The outcome of the court hearing was presented to Council on 20 December 2023 (COGC/124/23) and the decision to adopt the LDP was made. An adopted Wrexham LDP is therefore in place at present.
- 2.6 In January 2024 Councillor Marc Jones started two separate court proceedings in relation to the LDP as Claimant, supported by Councillor Mark Pritchard.
- 2.7 One claim is made under s113 of the Planning and Compulsory Purchase Act 2004 for an order quashing the LDP. The Defendants to the proceedings are Wrexham County Borough Council, the Welsh Ministers, BDW Trading, Bloor Homes, Redrow Homes, Harworth Estates, Russell Homes, Castle Green Homes and SG Estates. The claim is brought on the following grounds:
- The LDP is outside the appropriate powers of the 2004 Act and/or  
The interests of the Claimant (Marc Jones) have been substantially prejudiced by a failure to comply with a procedural requirement since Members were erroneously advised that they had a legal duty to adopt the LDP.
- 2.8 At the present time this claim is stayed (halted) waiting for the outcome of the second claim as set out below.
- 2.9 The second claim by Councillor Marc Jones is a challenge to the decision made by Mr Justice Eyre based on an argument that the legislation gives a local authority discretion not to adopt a LDP contrary to the recommendations of the Inspectors who have examined the plan.
- 3.0 Again throughout these proceedings the Council's legal team has sought expert legal advice on process and complied with the filing of the required court documents to defend the claim.
- 3.1 The public court hearing of the second claim has been listed for Tuesday 15 October 2024 at the Court of Appeal, Royal Courts of Justice, London. The Council will be represented by a barrister at the hearing.
- 3.2 Councillor Marc Jones has sought a protective cost order in the court proceedings which means that there is a fixed cap on his liability for costs of £5000 and on the defendants of £35,000.