

**North East Derbyshire District Council**

**Cabinet**

**13 December 2017**

**North East Derbyshire Local Plan - Update**

**Report of Councillor M Gordon, Portfolio Holder with Responsibility for Environment**

This report is public

**Purpose of the Report**

To advise Members:

- of current issues and progress in relation to the preparation of the Local Plan; and
- to outline the next steps for the preparation of the Local Plan.

**1 Report Details**

**Background – Local Plan Timetable**

- 1.1 The Council adopted the current timetable for the preparation of the Local Plan in October 2015 (**Cabinet Report No: MG/07/15-16/HF**). Since that time the Planning Policy Team, supported by the cross-party Local Plan Steering Group and Members has worked well to keep to the adopted timetable; and with the exception of a minor update combining two Regulation 18 consultations planned for June 2016 and February 2017 into a single consultation, the Local Plan has progressed in line with the adopted timetable, most recently with the public consultation on a Draft Plan in February 2017. To support this additional staffing resources have been allocated to facilitate delivery of the plan as a key corporate priority.
- 1.2 It is clear that keeping to the adopted timetable has been challenging. Furthermore the situation has been compounded by the need to rely upon the co-operation of third parties to provide input and evidence that is critical in the development and delivery of a sound Plan. At this time key elements of the evidence base remain outstanding. Consequently this has directly affected this Council's ability to meet its proposed Publication of the Local Plan in Autumn 2017. Because of this further action is being taken to address the issue of outstanding information. Additionally work is also being done to consolidate the evidence to substantiate how this has impacted on the Local Plan timetable and was beyond the reasonable control of the Council.
- 1.3 Over this period there have also been significant changes to National Planning Policy and the regulations governing plan production, creating some uncertainty for the process. In September this year the Government consulted on a common methodology for assessing housing need, with consultation on changes to the NPPF signalled for early in the New Year. It is expected that these changes will take effect from 31<sup>st</sup> March 2018 and will apply to any Local Plan submitted after this date. The

Government has made it clear that Councils should not delay Local Plan preparation on the basis of changes to national guidance.

### **Current issues – Secretary of State’s ‘Notice of Intervention’**

- 1.4 On 16 November 2017 the Secretary of State for Communities and Local Government (SoS) wrote to the Council to confirm that it had been identified as one of fifteen local authorities where Government believed there had been a lack of progress on local plan making. This letter also stated that the Government will prioritise intervention in the Local Plan and requested that the Council provide details of the exceptional circumstances for delays to its delivery and what action was being taken to address this and accelerate plan publication.
- 1.5 Consequently the Council has been invited to respond to the SoS by 31 January 2018 outlining any exceptional circumstances which the Council considers justify the failure to produce a Local Plan in line with Governments expectations. This response will also require the Council to set out any measures that the authority has taken, or intends to take, to accelerate plan production. This will be then taken into account by the SoS when making a final decision on intervention.
- 1.6 At this stage it is not known precisely what form intervention would take and lead officers are in dialogue with the appointed DCLG contact to clarify this. It is clear that intervention could pose a significant risk to the Council as it could mean determination and publication of the Plan is taken from it. This would have significant implications for the Council and the District but as this time it is not clear what intervention could mean or how it would work. It is also not clear how this would help to address delivery of the Local Plan or speed up the timetable. However it is clear that that threat of intervention presents significant risks as it could lead to a team assigned by the Government finalising and producing the plan, with the costs charged to the Council. Whatever form intervention takes, it is likely that the outcome will be the same with decision making powers for Local Plan production removed from the Council.

### **Proposed Actions & Next Steps**

- 1.7 The immediate action for the Council is to review the Local Development Scheme in light of the SoS’s letter and the very real threat of intervention. It is imperative that the Council can show progress and that any slippage against the current adopted timetable is minimised or recovered. As a result of the imminent departure of the Assistant Director for Planning and Environmental Health temporary additional resources have been brought in to advise on this process. It is also likely that further additional resources will be required in order to accelerate the Local Plan timetable. It is recommended that the Chief Executive be authorised to appoint additional resources up to a value of approximately £15,000. With approval for any further expenditure agreed by the Chief Executive in consultation with the Leader. This will be financed from existing salary savings across the Council and from planning fee income.
- 1.8 The review will include a critical assessment of resources including looking at ways to accelerate delivery and achieve submission at the earliest possible date and prior to 31 March 2018 if possible. This will be accompanied by a detailed project plan to demonstrate that the timescales are achievable and the Council is committed to delivery.

- 1.9 A further key action is to critically review the outstanding evidence and identify those elements that it is crucial are in place for the Publication and/or Submission stages without undermining the soundness of the Plan.
- 1.10 The Council has an advisory visit scheduled with the Planning Inspectorate (PINS), in December. This will enable further consideration of technical and procedural issues surrounding the emerging Local Plan prior to Publication. This visit was arranged as part of the ongoing development of the plan and prior to the SoS's letter. Whilst it will not focus on the risk of intervention, it will ensure consideration of the issues and options currently facing the Council. Additionally the Council will continue its regular dialogue with DCLG and seek advice on the best way forward. Throughout development of the plan there has been positive engagement with DCLG and prior to the SoS's letter there was no formal indication of concerns warranting direct Government intervention.
- 1.11 In view of the continuing dialogue with DCLG and the significant work being undertaken, it is proposed that a revised timetable will be brought to the next Local Plan Steering Group meeting on 19 December 2017. Following this it is anticipated that further details of the proposed response to the SoS and a revised Local Development Scheme timetable will be presented to Cabinet at its meeting in January 2018.

## **2 Conclusions and Reasons for Recommendations**

- 2.1 Delay in the completion of key elements of the evidence base has impacted on the current Local Plan timetable. Given the SoS letter and the risk of intervention it is essential that the Council makes every effort to address the Governments concerns evidencing its continued commitment to adopting a new Local Plan as soon as possible. Therefore the report outlines the key actions required to achieve this.

## **3. Consultation and Equality Impact**

- 3.1 This report outlines current issues pertaining to the preparation of the Local Plan. Formal public consultation is integral to Plan production and is scheduled to take place at key stages in line with regulations. If it is necessary to undertake further consultation as part of any revised timetable for Local Plan delivery then this will be factored into the process
- 3.2 There are no specific equalities issues arising out this report. However, an equality impact assessment of the Local Plan's policies will be undertaken at the publication stage of the Local Plan.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 The Council is required to produce a Local Plan however if it fails to make sufficient progress the Government will intervene and take over plan production. This would effectively take away the Council's control over the future planning of the District and is not considered to be an appropriate option.

## **5 Implications**

### **Finance and Risk Implications**

- 5.1 In response to the threat of intervention the Council has secured additional resources to advise and to support the Council's formal response to the Secretary of State. It may also be necessary to secure additional temporary resources in order to secure accelerated Local Plan timescales and avoid government intervention in the plan-making process, this is likely to be in the region of £15,000. In view of the short timescales involved and the need to respond quickly it is recommended that this matter be delegated to the Chief Executive up to a value of £15,000 with any further expenditure agreed in consultation with the Leader.

### **Legal Implications including Data Protection**

- 5.2 The Council has a statutory duty to keep under review the matters which may be expected to affect the development of their area.

### **Human Resources Implications**

- 5.3 There is a need to ensure that resources in the planning service continue to be sufficient to ensure that timely delivery of a sound Local Plan. It is important to note that Government intervention in the Local Plan process could have some very significant implications for Planning Policy Team staffing arrangements, although the extent of this is unknown.

## **6 Recommendations**

- 6.1 That Cabinet notes the detailed issues set out in the report and approves the actions listed at paragraphs 1.7 – 1.11 of this report, including the appointment of additional resources.

## 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <i>BDC:</i>            <i>Revenue - £75,000</i> <input type="checkbox"/>                            <i>Capital - £150,000</i>   <input type="checkbox"/>  <i>NEDDC:</i>         <i>Revenue - £100,000</i> <input type="checkbox"/>                            <i>Capital - £250,000</i>   <input type="checkbox"/>  <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	<p>The maintenance of a five year supply of deliverable housing has an impact on the way decisions on planning applications for residential development are determined. As such it has potential impacts on the following corporate aims:</p> <p>COMMUNITY SAFETY – Ensuring that communities are safe and secure</p> <p>ENVIRONMENT – Promoting and enhancing a clear and sustainable environment</p> <p>REGENERATION – Developing healthy, prosperous and sustainable communities</p>

## 8 Document Information

Appendix No	Title
<p><b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) [can we discuss?]</p>	
<p><b>Report Author</b></p>	<p><b>Contact Number</b></p>
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